

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/18/2928

Re: Property at Flat 1/2, 57 Provost Road, Dundee, DD3 8AG (“the Property”)

Parties:

Northern Housing Company Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Mr Michael Falconer, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for possession of the Property be granted.

- **Background**

This is an application made in terms of Rule 66 (Application for order for possession upon termination of a short assured tenancy) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended. The application had started as a Rule 65 case but was amended to a Rule 66 Case by the applicant’s solicitors by email dated 20 February 2019. Along with the application form dated 23 October 2018 the applicant lodged a copy of the Short Assured Tenancy Agreement, copy Section 33 Notice, copy Notice to Quit, copy Sheriff Officers Certificate of Service in respect of the notices, copy AT5 and copy Section 11 Notice. The application was originally assigned to a Case Management Discussion on 9 January 2019 but was unable to go ahead due to problems identifying the whereabouts of the Respondent in order to give Notice of the application and Case Management Discussion. Two further Case Management Discussions were assigned for 20 February 2019 and

23 April 2019 but both required to be postponed due to the Respondent's whereabouts being unknown. Details of today's Case Management Discussion were served by way of advertisement on the First-tier Tribunal for Scotland Housing and Property Chamber website between 24 May 2019 and 28 June 2019 in terms of Rule 6A of the 2017 Regulations. In the Notice the Respondent was asked to contact the Tribunal administration as soon as possible so that the appropriate paperwork could be issued to him. The Notice advised that a failure to respond would not delay the proceedings and a decision could be made in his absence. No contact has been made by the Respondent.

- **The Case Management Discussion**

The Case Management Discussion took place today. Kirsty Morrison, Solicitor from TC Young Solicitors appeared on behalf of the Applicant. The Respondent did not attend. The Tribunal explained the purpose of the Case Management Discussion and asked whether there were any preliminary matters to attend to. The only preliminary matter was that this was the Fourth Case Management Discussion set down in this case due to problems ascertaining the whereabouts of the Respondent. The Tribunal went through the application, papers and evidence before it.

- **Findings in Fact**

1. The Parties entered into a Short Assured Tenancy Agreement from 14 November 2015 to 16 May 2016 which would then continue on a month by month basis.
2. The Landlord required to give 2 month's notice of ending the tenancy.
3. An AT5 was served prior to the creation of the tenancy.
4. A Notice to Quit and Section 33 Notice were served by Sheriff Officers on 9 August 2018 requesting the Respondent to remove from the Property by 16 October 2018 which was the ish date.
5. The Applicant is entitled to the order sought for repossession.

- **Reasons for Decision**

The Tribunal proceeded on the basis of the written documents which were before it as detailed above. The Applicant's solicitor confirmed these written documents confirmed her understanding of the position. The requirements for repossession in terms of Section 33 of the Housing (Scotland) Act 1988 were met. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

- **Decision**

The order for eviction/repossession is granted.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Ms Anne Mathie

Legal Member/Chair

28 June 2019

Date