



**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/18/3397**

**Re: Property at Galabank House, 5 Guysgill, Annan, DG12 5DY (“the Property”)**

**Parties:**

**Mr Alastair Bruce Warwick, 35 Moorpark Avenue, Carlisle, CA2 7LZ (“the Applicant”)**

**Ms Angela Clow, Galabank House, 5 Guysgill, Annan, DG12 5DY (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a hearing and made an Order for Possession of the Property.**

**Background**

By application, received by the Tribunal on 13 December 2018, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The application was accompanied by copies of a Short Assured Tenancy Agreement between the parties commencing on 7 April 2015 and, if not terminated on 7 October 2015, continuing from month to month until terminated by either party giving two months’ notice in writing to the other, and by a Form AT5 Notice dated 6 April 2015.

The application was also accompanied by a Notice given under Section 33 of the 1988 Act and a Notice to Quit, both dated 22 August 2018, requiring the Respondent to vacate the Property by 7 November 2018 and by proof of delivery by recorded delivery post on 25 August 2018.

On 22 February 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 12 March 2019.

The Respondent made no written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at Lochvale House, Georgetown Road, Dumfries on the morning of 15 March 2019. The Applicant was present and was represented by Jill Irvine and Cameron McCartney of Brazenall & Orr, solicitors, Dumfries. The Respondent was not present or represented at the Case Management Discussion.

The Applicant's representative asked the Tribunal to make an Order for Possession without a hearing.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the documentation and information it required and that it would decide the application without a hearing.

Section 33 of the 1988 Act states that the Tribunal shall make an order for possession of a house let on a Short Assured Tenancy if it is satisfied that the tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given to the tenant notice that he requires possession of the house.

The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that no further contractual tenancy was in existence and that the Notice required by Section 33 of the 1988 Act had been properly given. Accordingly, all the requirements of Section 33 of the 1988 Act had been met and the Tribunal was bound to grant the application and make an Order for Possession.

### **Decision**

The Tribunal determined that the application should be granted without a hearing and made an Order for Possession of the Property.

### **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.

**G Clark**

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Legal Member/Chair

15 March 2019

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Date