



**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/20/1288

**Re: Property at 6 Kirkcubright Place, East Kilbride, Glasgow, G74 3LS (“the
Property”)**

Parties:

**Mr Eddie Hunter, c/o Your Move, 31A North Bridge Street, Bathgate, West
Lothian, EH48 4PJ (“the Applicant”)**

**Mr David Andrews, 6 Kirkcubright Place, East Kilbride, Glasgow, G74 3LS (“the
Respondent”)**

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

1. This is an application by the Applicant for an order for possession on termination of a short assured tenancy in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”). The tenancy in question was a Short Assured Tenancy of the Property by the Applicant to the Respondent commencing on 12 October 2015.
2. The application was dated 12 June 2020 and lodged with the Tribunal shortly thereafter.
3. The application relied upon a Notice to Quit and a notice in terms of section 33 of the Housing (Scotland) Act 1988, both dated 13 February 2020, providing the Respondent with notice (respectively) that the Applicant sought to terminate the

Short Assured Tenancy and have the Respondent vacate the Property. The date specified in both notices specified was 11 May 2020. Evidence of service of the said notices (in a single envelope) by Recorded Delivery service upon the Respondent on 13 February 2020 was provided to the Tribunal.

4. Evidence of a section 11 notice in terms of the Homelessness Etc. (Scotland) Act 2003 served upon South Lanarkshire Council on 12 June 2020 was provided with the application.

The Hearing

5. On 2 September 2020, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber by remote telephone conference call, I was addressed by Kirstie Donnelly, solicitor of Ballantyne Kirkwood France & Co, for the Applicant.
6. There was no appearance by the Respondent (that is, no call was placed into the telephone conferencing facility by the conclusion of the call around 10:20). The Applicant’s agent stated that no contact had been received from the Respondent. The Applicant was concerned that the Respondent may have vacated the Property but recent service of a Recorded Delivery notice (being an application for amendment under Rule 14A in the conjoined case on arrears) had been marked as signed for. The Applicant’s agent suggested that the Respondent may, at least, be at the Property on occasion. She added that keys had not been sent in and there had been no payment of rent since December 2019.
7. The clerk confirmed that no contact had been received by the Tribunal from the Respondent. In the circumstances, having waited until 10:07 to commence the CMD and, with no attempted contact from the Respondent, I was satisfied to proceed in the absence of the Respondent.
8. The Applicant’s agent confirmed that the application for eviction was still insisted upon. No order for expenses was sought.

Findings in Fact

9. On 12 October 2015, the Applicant let the Property to the Respondent by lease with a start date of that date until 11 April 2016 to “continue from calendar month to calendar month until brought to an end by either party serving written notice” (“the Tenancy”).
10. The Tenancy was a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988 further to the Applicant issuing the Respondent with a notice under section 32 of the 1988 Act (an “AT5”) on 12 October 2015, prior to commencement of the Tenancy.
11. On 13 February 2020, the Applicant’s letting agent, Your Move, drafted a Notice to Quit in correct form addressed to the Respondent, giving the

Respondent notice that the Applicant wished him to quit the Property by 11 May 2020.

12. On 13 February 2020, the Applicant's letting agent, Your Move, drafted a Section 33 Notice under the 1988 Act addressed to the Respondent, giving the Respondent notice that the Applicant required possession of the Property by 11 May 2020.
13. 11 May 2020 is an ish date of the Tenancy.
14. On 13 February 2020, the Applicant's letting agent, Your Move, competently served each of the notices upon the Respondent by sending by Recorded Delivery post. The Respondent was thus provided with sufficient notice of the Applicant's intention that the Tenancy was to terminate on 11 May 2020.
15. On 12 June 2020, the notice period under the notices having expired, the Applicant raised proceedings for an order for possession with the Tribunal, under Rule 66, the grounds of which being that the Tenancy had reached its ish; that tacit relocation was not operating; that no further contractual tenancy was in existence; and that notice had been provided that the Applicant required possession of the Property all in terms of section 33 of the 1988 Act.
16. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon South Lanarkshire Council on or around 12 June 2020 on the Applicant's behalf.
17. On 7 August 2020, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 2 September 2020 and the details for dialling into the conference call.

Reasons for Decision

18. The application was in terms of rule 66, being an order for possession upon termination of a short assured tenancy. I was satisfied on the basis of the application and supporting papers that the necessary notices had been served with sufficient notice, the Respondent was extending no defence or dispute to the notices, and thus the requirements of the 1988 Act had been complied with.
19. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. I was thus satisfied to grant an order for possession.

Decision

20. In all the circumstances, I make the decision to grant an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988 in normal terms.

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.

2 September 2020

Legal Member/Chair

Date