

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/20/2186

Re: Property at 1 Newton Avenue, Skinflats, Falkirk, FK2 8NW (“the Property”)

Parties:

Mr Tristan Kerr, 18 Canaan Lane, Edinbrugh, EH10 4SY (“the Applicant”)

**Mr Rodney Foster, 1 Newton Avenue, Skinflats, Falkirk, FK2 8NW (“the
Respondent”)**

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an Order for Possession of the Property be granted
against the Respondent**

Introduction

This is an application under Rule 66 and Section 33 of the Housing (Scotland) Act 1988.

Service of the application and notification of the Case Management Discussion (CMD), was made upon the respondent by Sheriff Officer delivery on 29 October 2020.

The CMD took place by teleconference at 2.00 pm on 8 December 2020.

The applicant was represented by Mr David Gray of Messrs BTO Solicitors. The respondent joined the teleconference hearing personally and represented his own interests. The respondent failed to participate in the teleconference hearing. There was no barrier to him doing so.

Findings and Reasons

The property is 1 Newton Avenue, Skinflats, Falkirk FK2 8NW.

The applicant is Mr Tristan Kerr. He is the heritable proprietor and landlord. The respondent is Mr Rodney Foster. He is the tenant.

The parties entered into a short assured tenancy which commenced on 6 April 2017. This was for an initial 6 months until 6 November 2017. Rent was stipulated at a rate of £365 per month. A relevant notice under Section 32 of the Act in Form AT5 was issued to the respondent in advance of the tenancy commencing, which is evidenced. This has been produced together with a copy of the tenancy agreement

The relevant Notice to Quit and Notice under Section 33 of the Act terminating the tenancy is dated 6 March 2020. The notices together with a copy of the s11 Notice were served upon the respondent by Sheriff Officers on 6 March 2020, which is evidenced. This is all before the notice periods were extended by the Coronavirus (Scotland) Act 2020. The relevant two month notice period was given requiring vacant possession as at 6 May 2020. The Section 11 notice was also issued to the local authority at this time. Copies of all these documents have been produced.

The applicant is entitled to recover possession of the property, having given relevant notice, under Section 33 of the Act. There is no defence to the application.

The Tribunal relied upon the documentary evidence produced on behalf of the applicant, together with the oral submissions made on his behalf.

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.

8 December 2020

Legal Member/Chair

Date