



**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/22/2868**

**Re: Property at 1/L 2 Brisbane Road, Largs, KA30 8LF (“the Property”)**

**Parties:**

**Mr Andrew McCowan, 23A Main Street, Cambuslang, G72 7EX (“the Applicant”)**

**Miss Khelsey Moffat, 1/L 2 Brisbane Road, Largs, KA30 8LF (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision (in absence of both parties)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed.**

**Background**

1. By application dated 12 August 2022 the Applicant’s representatives, Mackenzie Way, Estate & Letting Agents, Saltcoats, applied to the Tribunal for an order for possession of the property in terms of Section 33 of the Housing (Scotland) Act 1988. The Applicant’s representatives submitted a copy of the tenancy agreement, the Section 33 Notice and Notice to Quit, Section 11 Notice and other correspondence in support of the application.
2. Following further correspondence between the Applicant’s representatives and the Tribunal administration by Notice of Acceptance dated 19 October 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 28 November 2022.

4. A CMD was held by teleconference on 12 January 2023. The Applicant attended in person and was represented by Ms Parks from the Applicant's representatives. The Respondent did not attend nor was she represented. After hearing from the Applicant and Ms Parks the Tribunal determined to continue the CMD to a further CMD in order that it could be satisfied on the competency of service of the Notice to Quit and Section 33 Notice.
5. Intimation of the continued CMD was sent to the Applicant's representatives by email on 27 February 2023 and to the Respondent by post on the same day by the Tribunal administration.
6. Neither party submitted any written representations to the Tribunal prior to the continued CMD.

### **The Continued Case Management Discussion**

7. A CMD was held by teleconference on 31 March 2023. Neither party attended or was represented. The Tribunal allowed a reasonable period of time for either party or their representatives to dial in to the conference call but no-one did. The Tribunal was satisfied that proper intimation of the date and time of the CMD had been given to the Applicant's representatives. The Applicant's representatives were aware that the Tribunal required to be satisfied as to the validity of service of the Notice to Quit and Section 33 Notice and had since 12 January to provide the required information but had failed to do so. The Tribunal therefore determined that in terms of Rule 27(2)(b) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 it should dismiss the application as the Applicant has failed to co-operate with it to such an extent that it cannot deal with the proceedings justly and fairly.

### **Decision**

8. The Applicant having failed to attend or be represented at the CMD and his representatives having failed to provide the information requested at the CMD on 12 January 2022 the Tribunal determined to dismiss the application.

### **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.**

**Graham Harding  
Legal Member/Chair**

**31 March 2023  
Date**