



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 18 of the Housing (Scotland)  
Act 1988**

**Chamber Ref: FTS/HPC/EV/19/0044**

**Re: Property at Flat 2/3 28 Paisley Road, Renfrew, PA4 8JJ (“the Property”)**

**Parties:**

**Mr Stuart Todd, Mrs Celia Todd, C/O 1 Paisley Road, Renfrew, PA4 8JH (“the Applicant”)**

**Mr Sam Huey, Flat 2/3 28 Paisley Road, Renfrew, PA4 8JJ (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (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 eviction should be granted.**

**Background**

The Applicants lodged an application with the Tribunal on 8<sup>th</sup> January 2019 seeking eviction of the Respondent from the property at Flat 2/3, 28 Paisley Road, Renfrew. Along with the Application they lodged:

1. Copy Lease dated 28<sup>th</sup> August 2017
2. Copy AT5 dated 28<sup>th</sup> August 2017
3. Notice To Quit dated 23<sup>rd</sup> October 2018
4. Section 33 Notice dated 23<sup>rd</sup> October 2018
5. Recorded Delivery Receipt dated 24<sup>th</sup> October 2018
6. Section 11 Notice dated 7th January 2019
7. Copy email to the Local Authority enclosing the section 11 Notice dated 7th January 2019.

## **Case Management Discussion**

The Applicant was represented by Miss Donnelly of Bannatyne, Kirkwood and France, Solicitors. The Respondent appeared personally.

The Chairperson explained to the parties the purposes of a Case Management Discussion in terms of Rule 17 of the Tribunal's Procedural Rules. She explained that she would ask Miss Donnelly to present the Applicants' case and then ask the Respondent to respond.

Miss Donnelly advised that she was seeking an order for possession under Rule 66. The tenancy was a Short Assured Tenancy and the required Notice To Quit and Rule 33 Notices had been validly served. She referred to the Recorded Delivery receipt lodged with the papers showing that the respondent had signed for the papers. At this point the Respondent said that he had not signed anything. The Chairperson advised him that she would ask him about that when he was responding. Miss Donnelly said that the notices had brought the tenancy to an end at its ish, 27<sup>th</sup> December 2018, and that there was no further contractual tenancy in existence. The requirements of section 33 of the Housing (Scotland) Act 1988 had been complied with and that the Tribunal had no discretion, it was mandatory to grant the order.

The Chairperson asked the Respondent to confirm that he accepted that he had entered in to the tenancy agreement for the period from 28<sup>th</sup> August 2017 to 27<sup>th</sup> February 2018 and monthly thereafter, he agreed that he had. The Chairperson also asked him to confirm he had signed the AT5 form and he agreed that he had. The Chairperson explained to the Respondent that the tenancy was therefor a Short Assured Tenancy, and that the Applicants could bring it to an end by serving notices on him.

The Chairperson showed the Applicant the Recorded Delivery Signed For Receipt and asked him if he had signed for the delivery. The Respondent said that he could not recall having done so. He thought the signature might be his, but it was not clear. He said that often signatures do not look the same when signing on hand held devices. When asked he said that there was no one else at the property who could have signed for the delivery and conceded that it was probably him.

The Chairperson asked the Respondent if he had anything he wished to put forward. He said that he had been hit by a car some months ago and as a result had not been able to work, putting his rent in arrears. The Chairperson explained that the Applicants were not seeking his eviction on the grounds of rent arrears and that there was no defence to the type of eviction action which had been raised. She explained that she had no choice but to grant the order.

## **Findings In Fact**

1. The parties entered in to a lease for the property for a period from 28<sup>th</sup> August 2017 to 27<sup>th</sup> February 2018 and monthly thereafter;

2. The section 33 notice and Notice To Quit were both correct and had been correctly served on the Respondent by Recorded Delivery post;
3. The tenancy had been brought to an end by service of the notices and no further contractual tenancy was in existence.

### **Reasons For Decision**

The tenancy has been brought to an end in accordance with the legislation, and the granting of the order is mandatory.

### **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.**

**Alison J. Kelly**

**Legal Member/Chair**

14 / 3 / 19

**Date**

\*Insert or Delete as required