



**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/17/0482**

**Re: Property at Flat 2/2, 25 Cloan Avenue, Drumchapel, Glasgow, G15 6DB  
("the Property")**

**Parties:**

**Mr Ralph Tennent, 6 Deanwood House, Stockcross, Newbury, Berkshire, RG20  
8JP ("the Applicant")**

**Miss Elaine Lyttle, Flat 2/2, 25 Cloan Avenue, Drumchapel, Glasgow, G15 6DB  
("the Respondent")**

**Tribunal Members:**

**Shirley Evans (Legal Member)**

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

The First-tier Tribunal for Scotland has decided to grant an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988. **The order will be issued to the Applicant after expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

**Background**

1. By application dated 11 December 2017, the landlord/Applicant's solicitor on behalf of the Applicant applied to the First- tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") for an order for recovery of

possession of the property at Flat 2/2, 25 Cloan Avenue, Drumchapel, Glasgow, G15 6DB (“the Property”) under Section 33 of the Housing (Scotland) Act 1988.

2. On 14 December 2017 the Tribunal gave notification of acceptance of the application to the Applicant and the Respondent under Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
3. On 22 December 2017 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 9 January 2018. The Tribunal also advised both parties that a Case Management Discussion under Rule 17 of the Regulations would proceed on 31 January 2018. This paperwork was served on the Respondent by Andrew Fraser, Sheriff Officer, Glasgow on 28 December 2017 and certificate of execution of service was received by the Tribunal administration.
4. The Respondent did not make any written representations by 9 January 2018.

#### **Case Management Discussion**

5. The Tribunal proceeded with the Case Management Discussion on 31 January 2018. The Applicant was represented by Mrs Mullen from TC Young solicitors. The Respondent did not appear and was not represented.
6. Mrs Mullen confirmed that the Short Assured Tenancy between the parties commenced on 24 November 2014 and terminated on 24 May 2015 and had continued on a monthly basis since then. She indicated to the Tribunal that a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) 1988 were served on the Respondent to the effect that the Applicant intended to take repossession of the property on 24 September 2017. The Notice to Quit and the Notice under Section 33 were served on the Respondent by Paul Miller, Sheriff Officer, Glasgow on 28 July 2017. Mrs Mullen had provided the Tribunal with copies of the Short Assured Tenancy, AT5, Notice to Quit, Section 33 Notice and the certificate of execution of service from the Sheriff Officer. She had also provided the Tribunal with a copy of the Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 served on Glasgow City Council on 11 December 2017.
7. Mrs Mullen submitted that she had no information as to whether the Respondent had recently been in contact with the Applicant, that the Respondent continued to reside in the Property and that the order for

repossession should be granted, the Applicant having satisfied the statutory test in terms of Section 33 of the Housing (Scotland) Act 1988.

### **Findings in Fact**

1. The Applicant is the heritable proprietor and landlord of the Property at Flat 2/2, 25 Cloan Avenue, Drumchapel, Glasgow, G15 6DB.
2. The Respondent is the tenant of the Property and continues to reside there having failed to vacate on 24 September 2017.
3. The Applicant let the Property to the Respondent under a Short Assured Tenancy dated 24 November 2014 with a start date of 24 November 2014 and a termination date of 24 May 2015. The tenancy continued on a monthly basis thereafter.
4. On 20 July 2017 by way of Sheriff Officers the Applicant served a Notice to Quit terminating the tenancy on 24 September 2017 and a Notice in terms of Section 33 of the Housing (Scotland) Act 1988 indicating that the Applicant intended to take possession of the Property on 24 September 2017.
5. The contractual tenancy was brought to an end on 24 September 2017.

### **Reasons for Decision**

1. The Tribunal considered the issues set out in the application and noted that despite the Respondent being given notice of the Case Management Discussion, the Respondent had not lodged any written representations to dispute the application and was not present or represented at the Case Management Discussion. The Tribunal proceeded to hear and determine the application in the absence of the Respondent on being satisfied that the requirements of Rule 24(1) of the Regulations regarding the giving of notice of a hearing to the Respondent had been complied with.
2. The Tribunal concluded that the applicant was entitled to seek repossession of the property under Section 33 of the Housing (Scotland) Act 1988. There was a properly constituted Short Assured Tenancy between the parties. The Tribunal was satisfied that the statutory provisions of Section 33 of the

Housing (Scotland) Act 1988 had been met which would entitle the Applicant to repossess the Property namely that-

- i. the Short Assured Tenancy had reached its ish (termination date) on 24 September 2017;
  - ii. the tenancy was not continuing on a monthly basis after 24 September 2017, the Notice to Quit having been validly served on 20 July 2017 which brought the contractual Short Assured Tenancy to an end on 24 September 2017;
  - iii. no further contractual tenancy was in existence; and
  - iv. that the Applicant had given the Respondent at least 2 months' notice in terms of Section 33(1)(d) of the Housing(Scotland) Act 1988 stating that she required possession of the property on 24 September 2017.
3. In terms of Section 33(1) of the Housing (Scotland) Act 1988 the Tribunal shall make an order for possession where it is satisfied that the statutory terms of Section 33 of the Housing (Scotland) Act 1988 have been met. Accordingly, the Tribunal found that the Applicant was entitled to an order for possession of the Property and accordingly granted the order sought.
4. This is an application under Rule 66 being an application under section 33 of the Housing (Scotland) Act 1988. As narrated above, the Tribunal considered that this ground for recovery of possession under Section 33 has been met.

### **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.

S Evans

Shirley Evans  
Legal Member/Chair

9 February 2018