

**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/22/0645**

**Re: Property at 7 Birnie Place, Mosstodloch, Fochabers, IV32 7JW (“the  
Property”)**

**Parties:**

**Mr Raymond Bissett, 12 St Andrews Square, Elgin, IV30 6HX (“the Applicant”)**

**Mr Steven Graham, 7 Birnie Place, Mosstodloch, Fochabers, IV32 7JW (“the  
Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Mike Scott (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the Applicants are entitled to the Order sought for  
recovery of possession of the property.**

**[1] Background**

The application before the Tribunal was made in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicants sought an order to evict the Respondent from the property. The Tribunal intimated the application to the parties by letter of 5 April 2022 and advised them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 26 April 2022. The Respondent lodged written representations by email on 26 April 2022.

**[2] The case management discussion**

The case management discussion proceeded by conference call. The Applicant was represented by Mr Brown and the Respondent participated personally in the discussion. The Tribunal observed that the notices were served on the Respondent on 24 May 2021. The Respondent accepted that he had received notices and advised that the application for an order was not opposed. He explained that over the weekend, he managed to secure alternative accommodation. The Respondent has already moved some of his belongings into the new accommodation and anticipates that he will have moved into the new property by the end of June. The Applicant's representative submitted that if the order were to be granted, there would be a delay of 30 days before any order is issued and therefore that should allow sufficient time for the Respondent to vacate the property. It was submitted that it is reasonable in all of the circumstances to grant the order for eviction.

**[3] Findings in Fact**

- i. The parties entered into a short assured tenancy which commenced 1 July 2012.
- ii. The Applicant's representative served the Notice to Quit and Section 33 Notice on the Respondent by recorded delivery on 24 May 2021.
- iii. The short assured tenancy had reached its end.
- iv. Tacit relocation was not operating.
- v. No further contractual tenancy is in operation.

**[4] Reason for Decision**

The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Respondent received the notice to quit and section 33 notice almost 1 year ago and the application was not opposed. The Respondent has already started to vacate the property. The Tribunal was satisfied that the tenancy had been terminated in accordance with section 33 of the Act and that no further tenancy was in operation. In light of the information provided, the Tribunal was satisfied that it is reasonable for the Tribunal to grant the order for eviction.

**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.



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Legal Member/Chair

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Date 23 May 2022