



**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/22/0706

**Re: Property at Flat 3, 45 Junction Road, Kirkwall, Orkney, KW15 1AR (“the
Property”)**

Parties:

**Orkney Islands Property Developments Ltd, 15 Victoria Street, Kirkwall, Orkney,
KW15 1DN (“the Applicant”)**

**Mr Alwyn MacDonald, Flat 3, 45 Junction Road, Kirkwall, Orkney, KW15 1AR
 (“the Respondent”)**

Tribunal Members:

Nairn Young (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

- Background

This is an application for an order for possession of the Property, which is let by the Applicant to the Respondent in terms of a short assured tenancy. It called for case management discussion (‘CMD’) at 2pm on 1 June 2022, by teleconference. The Applicant was represented on the call by Mr Honeyman of the McKinstry Company, solicitors. The Respondent was not on the call and was not represented. The commencement of the CMD was delayed by 10 minutes to allow for any technical issue he may have been experiencing, but he did not get in contact.

Notice of the CMD was served on the Respondent by sheriff officers on 28 April 2022. The Tribunal was satisfied that he was aware of the CMD and had chosen not to attend. It therefore considered it was fair to proceed in his absence.

- Findings in Fact

1. The Applicant lets the Property to the Respondent in terms of short assured tenancy with a commencement date of 9 March 2017.
2. The tenancy agreement gave an original end date of 17 September 2017, with provision for the tenancy to run on from month to month thereafter, unless terminated by either party.
3. In the case of the termination by the Applicant, one months notice had to be given to the Respondent, in terms of the agreement.
4. The Applicant sent notice to quit to the Respondent by recorded delivery post on 14 July 2021, terminating the tenancy on 17 January 2022.
5. At the same time, and by the same means, the Applicant served a notice in terms of s.33(1)(d) of the Housing (Scotland) Act 1988.
6. On 10 March 2022, the Applicant sent a notice in terms of s.11 of the Homelessness etc. (Scotland) Act 2003 on the local authority, by email.
7. The Respondent has secured a council house.
8. The Respondent has not returned the keys to the Property and maintains some personal belongings there.
9. It is reasonable for an order for possession for the Property to be granted to the Applicant.

- Reasons for Decision


10. This is a short assured tenancy and the requirements of s.33 of the Housing (Scotland) Act 1988 have been met. It is reasonable to grant the order, as there is little or no prejudice to the Respondent, given he has secured alternative accommodation already.

- Decision

Order for possession granted.

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.

 **Nairn Young**

1 June 2022

Legal Member/Chair

Date