



**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 (“The Act”)**

**Chamber Ref: FTS/HPC/EV/22/3136**

**Re: Property at 2/5 33 Dalintober Street, Glasgow, G5 8JZ (“the Property”)**

**Parties:**

**Omar Ali, 10 Melfort Avenue, Glasgow, G41 5LQ (“the Applicant”)**

**Danielle Purves, 2/5 Dalintober Street, Glasgow, G5 8JZ (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.**

**Background**

The Applicant seeks an Eviction Order based on s 33 of the Act. The Application is accompanied by a copy of the tenancy agreement between the parties which commenced on 1 May 2015 together with a previous tenancy between the parties which was also in respect of the Property and which had commenced on 1 August 2012. An AT5 signed by the Respondent was produced along with the 2012 tenancy. The Application was also accompanied by a Notice to Quit and S33 Notice and proof of these having been served on the Respondent. There was also evidence of compliance with s 11 of the Homelessness (Etc) (Scotland) Act 2003.

## **The Case Management Discussion**

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 13 October 2022. The Applicant was represented by Mr Snop of Gilson Gray solicitors although latterly Mr Scott Runciman substituted in for Mr Snop when the Tribunal sought particular clarification about the absence of a Form AT5 in respect of the present tenancy which commenced on 1 May 2015.

The Application called alongside a related Application between the parties in respect of a Payment Order between the parties. There was no appearance by or on behalf of the Respondent. On the basis that information of the Application and details of how to join the conference call had been competently served on the Respondent, the Tribunal decided to proceed in the Respondent's absence.

The Tribunal raised a preliminary matter which was that there appeared to have been no AT5 signed by the Respondent for the current tenancy. Instead the Form AT5 for the previous tenancy was relied on by the Applicant as establishing that this tenancy was in fact another Short-Assured Tenancy. The success or failure of the Application in part depended on whether the current tenancy was a Short-Assured Tenancy within the meaning of the Act and so the Tribunal considered this carefully.

Having adjourned to consider this preliminary matter and then having considered the Application as a whole, the Tribunal made the following findings in fact.

### **Findings in Fact**

- I. *The Applicant and the Respondent entered into a Short-Assured Tenancy Agreement within the meaning of the Act whereby the Applicant let out the Property to the Respondent;*
- II. *The Respondent signed a Form AT5 in respect of this tenancy prior to its creation;*
- III. *This tenancy agreement commenced on 1 August 2012;*
- IV. *The parties entered into a further tenancy agreement which commenced on 1 May 2015 which was on substantially similar terms to the previous tenancy;*
- V. *Although no further Form AT5 was signed by the Respondent in advance of this new tenancy agreement, the terms of s 32 (3) of the Act provide that this new*

*agreement is still lawfully to be considered as a Short-Assured Tenancy within the meaning of the Act;*

- VI. *The Applicant subsequently competently served a Form AT6 and Notice to Quit on the Respondent by Sheriff Officers on the Respondent on 16 June 2022;*
- VII. *These notices called upon the Respondent to vacate the Property by 30 August 2022 which was the correct statutory notice period and which tied in with the ish date of the tenancy;*
- VIII. *The Respondent has significant arrears of rent and currently lawfully owes in excess of £23,200.00 as rent arrears under the tenancy agreement;*
- IX. *There is no reason before the Tribunal which provides any explanation for the Respondent having fallen into such a high level of rent arrears;*
- X. *The Applicant has complied with s 11 of the Homelessness (Etc) (Scotland) Act 2003;*
- XI. *The Respondent is thought to live alone at the Property and to be in full time self-employment;*
- XII. *It is reasonable to grant an Eviction Order.*

### **Reasons for Decision**

Having made the above findings in fact, the Tribunal granted the Application and made an Eviction Order.

### **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.

**Andrew McLaughlin**

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**Legal Member/Chair**

**13 October 2022**  
**Date**