



**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/22/3261

**Re: Property at 12 Birch Place, Drumsagard Village, Cambuslang, Glasgow, G72
7XU (“the Property”)**

Parties:

Mr Thomas McLeod, 85 Inishail Road, Glasgow, G33 5QX (“the Applicant”)

**Mrs Morag White, 12 Birch Place, Drumsagard Village, Cambuslang, Glasgow,
G72 7XU (“the Respondent”)**

Tribunal Members:

Richard Mill (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

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

1. This application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order.
2. The CMD took place by teleconference on 8 March 2023 at 10.00 am. The applicant joined the hearing and was represented by Mr Steven Murray of the MMFW Partnership, solicitors. The respondent was represented by Miss Lisa Agyako of Cartys solicitors.
3. The property is 12 Birch Place, Drumsagard Village, Cambuslang, Glasgow G72 7XU.
4. The applicant is Mr Thomas McLeod. He is the heritable proprietor and registered landlord of the property. The respondent is Mrs Morag White who is the tenant.

5. The parties entered into a short assured tenancy which commenced on 27 May 2013. An AT5 was served timeously in advance of the tenancy being created.
6. By way of Notice to Quit dated 27 May 2022 the applicant sought to bring the contractual tenancy to an end. In terms of the said Notice to Quit, the applicant gave notice to the respondent that she would require to remove from the property “at the 28 July 2022”.
7. The short assured tenancy was for the initial period of 27 May 2013 to 27 May 2014. The written lease provided that the tenancy should continue thereafter on a month to month basis. In the circumstances the tenancy continued thereafter between the 27th of the month to the 27th of the next month. The Notice to Quit served upon the respondent required to bring the tenancy to an end as at an ish date. The ish date of this short-term tenancy agreement between the parties is 27th of each month. The Notice to Quit served by the applicant states the wrong day of the month. This was accepted candidly by the applicant’s representative who otherwise submitted that the version of the Notice to Quit provided may not have been reflective of the actual notice served. His explanation of why this should be so was not accepted as credible. The inference was that the Notice may have specified the 27th of July. However there was no evidence of this. The Notice to Quit sought to bring the tenancy to an end on the wrong date and cannot be relied upon.
8. Moreover the required period of notice was not provided to the respondent. Again this is a matter candidly accepted by the applicant’s representative. The Notice to Quit is dated the 27th of May 2022. It was served by Royal Mail. It is accepted that there is no data on the track and trace system which shows when the Notice to Quit and s33 notice were delivered. The earliest they could have arrived was the 28th of May 2022. The required two months’ notice could not possibly have been given before the ish date.
9. Further, the applicant served upon the respondent Notice under Section 33(1)(d) of the Housing (Scotland) 1988. The s33 Notice provided with the application is blank and is not completed and therefore the applicant has not evidenced compliance with the terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.

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.



8 March 2023

Legal Member/Chair

Date