



**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/20/0447

**Re: Property at 1st Floor Left, 10 Balmore Street, Dundee, DD4 6SY (“the
Property”)**

Parties:

**Mrs Vanessa Cameron, 9 Belfray Mansions, St Andrews Road, Old Langho,
Blackburn (“the Applicant”)**

**Mr Graham Morton, 1st Floor Left, 10 Balmore Street, Dundee, DD4 6SY (“the
Respondent”)**

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an Order for Possession be made entitling the
Applicant to Evict the Respondent from the Property.**

Introduction

This is an application for an order for possession upon termination of a short assured tenancy under Rule 66 and section 33 of the Housing (Scotland) Act 1988.

The Applicant is the landlord and the Respondent is the tenant.

A Case Management Discussion (CMD) took place by teleconference on 18 August 2020 at 10am.

The Applicant was represented by Jacqueline Anderson of Robertson Property Management Ltd.

The Respondent did not participate in the call. He remains in the Property. Service of the application was made upon the Respondent by Sheriff Officer delivery on 27 July 2020. No steps were taken by him thereafter to lodge any response or representations. There was no barrier to his participation.

Findings and Reasons

The Property is 1st Floor Left, 10 Balmore Street, Dundee DD4 6SY.

The application is accompanied by the following documents:

1. Copies of 4 short assured tenancy agreements (for the years 2012 – 2016)
2. Copy AT5 (2012) & AT6
3. Copy Notice to Quit and s33 Notice
4. s11 Notice

The short assured tenancy agreement between the parties first commenced on 1 June 2012. An AT5 giving notice to the Respondent that the tenancy was a short assured one providing the landlord with special rights to repossess the property shows that the Respondent received and signed this on 31 May 2012, before the tenancy first commenced.

The parties entered into a number of subsequent written short assured tenancies. Despite it being unnecessary to create a fresh written lease this was done for the following 4 years to provide the Respondent with additional security of tenure. The last short assured lease entered into commenced on 1 June 2015.

Rent arrears has been an issue for a number of years. Despite this a fresh short assured tenancy was offered to commence on 1 June 2016 but the Respondent did not return the executed lease.

No AT5 has been produced in respect of the leases entered into after 2012 but each specifies that an AT5 was received by the Respondent.

The Notice to Quit and AT6 were served upon the Respondent on 28 November 2019. Possession was required by 1 February 2020.

The applicant is entitled to recover possession of the Property under s33 of the Housing (Scotland) Act 1988 on the provision of the required 2 month notice period.

The AT6 served upon the Respondent also raises other grounds for repossession – these all relate to arrears of rent. Such additional grounds are unnecessary though also constitute mandatory grounds for repossession. More than 3 months rent was due and outstanding both at the date of the Notice being served upon the Respondent in November 2019 and at the date of the date of the CMD. No rent has been paid by the Respondent since January 2019 – 19 months now. This is not due to the delay in payment of a relevant housing benefit. This is a mandatory ground for repossession under ground 8 of part 1 of schedule 5 to the 1988 Act.

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.

R Mill

Legal Member/Chair

Date: 18 August 2020