



**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/18/2448**

**Re: Property at 12 Meikle Road, Glasgow, G53 5JG (“the Property”)**

**Parties:**

**Mrs Leigh Ronald, Gowanbrae, Doune Road, Dunblane, FK15 9HR (“the Applicant”)**

**Mr David Mahon, 12 Meikle Road, Glasgow, G53 5JG (“the Respondent”)**

**Tribunal Members:**

**Lesley Ward (Legal Member) and Elizabeth Dickson (Ordinary 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 of the property at 12 Meikle Road Glasgow G53 5JG be granted and granted an order in term of s33 of the Housing (Scotland) Act 1988.**

This is an application in terms of s33 of the Housing (Scotland) Act 1988, ‘the Act’ and rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’. The application was made on behalf of Mrs Leigh Ronald by Ms Eniola Oshodi trainee solicitor of Complete Clarity Solicitors on the 25 September 2018. A case management discussion ‘CMD’ was held on 21 November 2018 in connection with this application and an application in terms of rule 70. The tribunal on that date noted that two matters were outstanding:

1. Mr Ronald as joint proprietor to the property required to give his consent to the application.
2. The AT5 was not referred to in the lease and the AT5 lodged did not appear to be signed by the respondent to constitute a short assured tenancy and there was no proof of service of the AT5.

The tribunal today had before it the following copy documents:

1. Application.
2. Tenancy agreement signed 30 September 2011 for let of the property from 7 October 2011 to 7 April 2012 and month to month thereafter.
3. AT5.
4. Notice to quit dated 26 June 2018 to bring the tenancy to an end on 7 September 2018.
5. AT6/s33 notice dated 26 June 2018 to bring the tenancy to an end on 7 September 2018.
6. Sheriff officer's execution of service of items 4 and 5 on 28 June 2018.
7. S11 letter.
8. CMD note from 21 November 2018.
9. Sheriff officer's execution of today's hearing on respondent on 23 November 2018.
10. Email from Mr Ronald to the Tribunal on 2 January 2019.
11. Further AT5.

The applicant attended the hearing. She is no longer instructing her solicitors in this matter. Mr Ronald also attended. The respondent did not attend and was not represented.

### **Preliminary matters**

1. Mrs Ronald and Mr Ronald confirmed that they are the joint owners of the property and Mrs Ronald is the landlord. Mr Ronald confirmed that he is happy for his wife to pursue this matter in her sole name.
2. The applicant had lodged the AT5 which was initialled "DM" on the bottom of each page. Mr Ronald proposed to give evidence in connection with the AT5.

### **Evidence of Mr Ronald**

Mr Ronald's evidence was that he did not appreciate the importance of the AT5 when this was passed to his solicitor to make the application. He gave the wrong copy to his wife's solicitor. He retrieved the file from storage and he had the full folder of documents which were signed by the respondent at the letting agent's office. He clearly remembered the AT5 being initialled by the respondent and his recollection was that as it was at the top of the bundle of documents and that this was the first document signed. He remembered the letting agent attaching importance to the AT5 and the lease.

The evidence of the applicant was that she is seeking the eviction today as the respondent continues to reside in the property and the respondent is continuing to accrue arrears.

### **Findings in fact**

1. The applicant and her husband are the owners of the property,

2. The respondent entered into a short assured tenancy agreement with the applicant on 30 September 2011 to let the property for an initial period of 6 months from 7 October 2011 until 4 April 2012.
3. The respondent received an AT5 from before signing the lease and initialled the AT5.
4. The respondent was served with a notice to quit , AT6 and s33 notice on 28 June 2018 with a valid ish date of 7 September 2018.
5. The short assured tenancy has reached its ish.
6. Tacit relocation is not operating.
7. No further contractual tenancy is in existence.

### Reasons

The tribunal is satisfied that the respondent has received notice of today's hearing in terms of rule 24. The tribunal were entitled to proceed in his absence in terms of rule 29 and there was sufficient information before the tribunal to make a decision.

The tribunal was satisfied after hearing oral evidence from Mr Ronald that the AT 5 was initialled by the respondent before the tenancy agreement was signed and a short assured tenancy was constituted. This being the case and the notice to quit and s33 notice being valid, the tribunal granted the mandatory order in terms of s33 of the Act.

The decision is unanimous

### **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.**

LESLEY WARD

8 January 2019

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Lesley A Ward Legal Member

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Date