



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 18(1) of the Housing
(Scotland) act 1988**

Chamber Ref: FTS/HPC/EV/19/3663

Re: Property at Flat 10, 107 Main Street, Sauchie, FK10 3JT (“the Property”)

Parties:

Claymert Limited, 158 Claremont, Alloa, FK10 2ER (“the Applicant”)

**Mr James Hossack, Flat 10, 107 Main Street, Sauchie, FK10 3JT (“the
Respondent”)**

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order for
possession of the property and the ejection of the Respondent from the
property.**

Background

1. By application dated 13 November 2019 the Applicant’s representatives Jardine Donaldson, Solicitors, Stirling applied to the Tribunal for an order for the possession of the property. The applicant’s representatives provided the Tribunal with a copy of the lease, copy AT5, notice to Quit, Section 33 Notice, section 11 Notice, execution of service and mandate in support of the application.
2. By Notice of Acceptance dated 16 December 2019 a legal member of the tribunal with delegated powers accepted the application and a Case management discussion was assigned.

3. Intimation of the Case Management discussion was given to the Applicant's representatives by post on 27 December 2019 and to the Respondent by Sheriff Officers on 31 December 2019.
4. No written representations were received from the Respondent in advance of the Case management Discussion.

The Case Management Discussion

5. A Case Management Discussion was held at Wallace House, Stirling on 29 January 2020. It was attended by Ms Mhairi McCallum of the Applicant's representatives on behalf of the Applicant who did not attend. The Respondent did not attend and was not represented. The tribunal being satisfied that proper intimation of the Case Management Discussion having been given to the Respondent determined to proceed in his absence in accordance with Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
6. Ms McCallum referred the Tribunal to the terms of the Tenancy agreement and Form AT5 and submitted that there was a Short Assured Tenancy agreement in place that commenced on 11 May 2011 and that following the initial term of six months continued basis until terminated by either party giving two months' notice. However to avoid any dispute about the ish date the notice to Quit and section 33 Notice had been taken as 11 November 2019.
7. Ms McCallum referred the Tribunal to the Form AT5 dated 5 May 2011 and confirmed this had been provided to the Respondent prior to the commencement of the tenancy.
8. Ms McCallum referred the Tribunal to the Notice to Quit and section 33 Notice and the Sheriff Officers Execution of service confirming the notices had been served on 6 August 2019 and provided that the Respondent should vacate the property on or before 11 November 2019.
9. Ms McCallum confirmed the Respondent remained in the property. She advised the Tribunal that there had been no communication from the Respondent either to her firm or to the Applicant.
10. Ms McCallum referred the Tribunal to the Section 11 Notice sent to Clackmannanshire Council on 13 November 2019. And confirmed it had been sent by secure DX post.
11. Ms McCallum submitted that the Tenancy having been validly terminated in terms of Section 33 of the Housing (Scotland) Act 1988 the order sought should be granted.

Findings in Fact

12. The parties entered into a Short assured tenancy Agreement that commenced on 11 May 2011 and endured for a period of six months and continued thereafter by tacit relocation until terminated on 11 November 2019.
13. The Respondent was served with a valid Notice to Quit and Section 33 notice on 6 August 2019.
14. The Respondent has remained in occupation of the property despite the tenancy being terminated on 11 November 2019.
15. The Applicant's representatives sent a section 11 Notice to Clackmannanshire council by post on 13 November 2019.

Reasons for Decision

16. The Tribunal was satisfied from the documents produced and the oral submissions of Ms McCallum that the parties had entered into a Short Assured tenancy that had been validly brought to an end on its ish date of 11 November 2019 by the service of a Notice to Quit and Section 33 Notice by Sheriff Officers on 6 August 2019.
17. The Tribunal was also satisfied that the statutory requirements of intimating the proceedings to the local authority had also been met by service of the Section 11 notice.
18. As the requirements in terms of Section 33 of the housing (Scotland) Act 1988 had been met the Tribunal was satisfied that the order sought should be granted.

Decision

19. The Tribunal finds the applicant entitled to an order for the possession of the property and the ejection of the Respondent from the property.

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.

Graham Harding

Legal Member/Chair

29 January 2020

Date