

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**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/19/0175**

**Re: Property at 24 Annbank Street, Larkhall, ML9 1BU ("the Property")**

**Parties:**

**Mr William Kent, 10 Springbank, Lesmahagow, Lanark, ML11 0FE ("the Applicant")**

**Mr Kevin Gilroy, 24 Annbank Street, Larkhall, ML9 1BU ("the Respondent")**

**Tribunal Members:**

**Lesley Ward (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 of the property at 24 Annbank Street Larkhall ML9 1BU be granted and granted an order for possession in terms of s33 of the Housing (Scotland) Act 1988.**

This was a case management discussion 'CMD' in connection with an application in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules, 'the rules' and s33 of the Housing (Scotland) Act 1988, 'the Act'. The tribunal had before it the following copy documents:

1. Application dated 17 January 2019 and received on that date.
2. Notice to quit dated 27 December 2017 with an ish of 3 March 2018.
3. S33 notice dated 27 December 2017.
4. S11 notice to local authority.
5. Proof of service of items 2 and 3,
6. AT5 signed by respondent on 4 April 2017.
7. Tenancy agreement.
8. Email from respondent to tribunal dated 21 March 2019.
9. Email from applicant's agents to tribunal dated 19 and 21 March 2019.

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10. Mandate signed by applicant authorising GBS Lets to act on his behalf dated 21 January 2019.
11. Letter from joint proprietor dated 31 January 2019.
12. Land certificate.
13. Sheriff Officer's execution of service of application and CMD details on respondent dated 4 January 2019.

Mr Barry Munro attended the CMD on behalf of the applicant. The respondent did not attend and was not represented.

### **Preliminary matters**

1. The tribunal noted that the proof of postage of the notice to quit and s33 notice lodged (item 5 above) was of poor copy. The date of 27 December 2017 could be just be made out. Mr Munro was able to point out the post code of the property and this could also just be made out. In accordance with the overriding objective the tribunal accepted the evidence produced and decided not to adjourn for a more legible copy of the proof of postage.
2. The tribunal noted that further documentation had been lodged (item 9 above) which did not appear to be relevant to the application. Mr Munro advised that there was no separate application for arrears in terms of rule 70 but that the rent statement etc lodged were to give the tribunal background information. He also pointed out that reason for the delay in making the application from service of the notice to quit and s33 notice was to give the respondent an opportunity to clear his arrears.

### **Findings in fact**

1. The applicant is the joint owner of the property.
2. The applicant entered into a short assured tenancy with the respondent for let of the property for the initial period of 4 April 2017 until 3 October 2017 and month to month thereafter.
3. The respondent was served with a valid notice to quit and s33 notice on 27 December 2017 with a valid ish date of 3 March 2018.
4. The short assured tenancy has reached its ish.
5. Tacit relocation is not operating.
6. No further contractual tenancy is in existence.

### **Reasons**

The tribunal is satisfied that the respondent has received notice of today's CMD in terms of rule 24. The tribunal proceeded with the CMD in the respondent's absence in terms of rule 29. The tribunal considered that it had enough information before it

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today to make a decision and the procedure has been fair. The tribunal accordingly granted the mandatory order sought.

### **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.

# Ms Lesley Ward

25 March 2019

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Lesley A Ward Legal Member

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Date