



**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/18/2039

Re: Property at 51/2 Easter Road, Edinburgh, EH7 5PL (“the Property”)

Parties:

**Mr Joseph William Hogan, 24 Carysfort Hall, Carysfort Avenue, Blackrock,
County Dublin, Ireland (“the Applicant”)**

**Mr Daniel James Warren, 51/2 Easter Road, Edinburgh, EH7 5PL (“the
Respondent”)**

Tribunal Members:

Alastair Houston (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 in favour of the
Applicant.**

1. Background

1.1 This is an application for an order for possession upon termination of a Short Assured Tenancy Agreement. The application was accompanied by copies of the written tenancy contract, the Form AT5, a notice to quit and notice in terms of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), notice in terms of Section 19 of the 1988 Act and a notice under Section 11 of the Homelessness etc (Scotland) Act 2003 (“the 2003 Act”).

2. The Case Management Discussion

2.1 The Case Management Discussion took place on 1 October 2018. The Applicant was represented by Mr Corr, Solicitor, who was accompanied by Miss Gravelle, Trainee Solicitor. The Respondent was neither present nor represented.

2.2 The Tribunal considered that notice had been given to the Respondent of the Case Management Discussion in terms of the Chamber Rules and that it was appropriate to proceed in the Respondent's absence.

2.3 Mr Corr confirmed that the application was insisted upon. He confirmed that the documentation accompanying the application was relied upon and requested that an order for possession was granted.

3. Reasons for Decision

3.1 Section 33 of the 1988 Act requires the Tribunal to grant an order for possession of a property let on a Short Assured Tenancy where the tenancy has reached its *ish*; tacit relocation is not operating; no further contractual tenancy for the time being is in existence and the landlord has given notice to the tenant that they require possession of the property.

3.2 With regards to the present application, the written tenancy contract confirmed that, following the initial period of let, the agreement between the parties was continuing on a month to month basis, from the second day of each month. Two months' notice was required to terminate the agreement.

3.3 The notice to quit was dated 18 May 2018. The document also gave notice in terms of Section 33 of the 1988 Act. It sought to terminate the tenancy agreement on 2 August 2018. This was a valid *ish* date. The certificate of intimation from Sheriff Officers confirmed that it had been served on the Respondent on 31 May 2018. The required period of notice had therefore been given.

3.4 The requirements of Section 33 of the Housing (Scotland) Act had therefore been satisfied and the Tribunal was required to grant an order for possession.

4. Decision

4.1 The Tribunal made an order for possession in favour of the Applicant.

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.

Alastair Houston

Legal Member/Chair

1 October 2018

Date