

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

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**Statement of Decision 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/17/0547**

**Re: Property at 158 Main Street, East Calder, Livingston, EH53 0HE (“the Property”)**

**Parties:**

**Ms Sara Sangtangeli, Ms Anna Tanzi, 17 Market Street, Haddington, EH41 3JL; 17 Market Street, Haddington, EH54 3JL (“the Applicant”)**

**Mr Kevin Byrne, 158 Main Street, East Calder, Livingston, EH53 0HE (“the Respondent”)**

**Tribunal Members:**

**Fiona Watson (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property be granted.**

- **Background**

The application is for an order for possession of property known as and forming 158 Main Street, East Calder, EH53 0HE. An application was submitted to the Tribunal by the Applicants on 20 December 2017 setting out that the Applicants sought possession of the property under section 33 of the Housing (Scotland) Act 1988.

Documents lodged with the Application were a copy of the Tenancy Agreement, Notice to Quit, section 33 Notice and notification to the Local Authority under s11 of the Homelessness etc. (Scotland) Act 2004.

- The Case Management Discussion

The Applicants were represented by Ms Olivia Keenan of Jackson Boyd solicitors. The Applicants' property agent, Ashley Puren of Pure Property Management was also present. The Respondent was personally present, supported by his father, Samuel Byrne.

- Findings in Fact

1. The parties entered into a Short Assured Tenancy Agreement commencing 6 May 2016 and ending 7 November 2016. Thereafter, the tenancy was rolling on a monthly basis until terminated by either party in terms of clause 1.1 of the said tenancy agreement.
2. The Applicants served on the Respondent a Notice to Quit and Notice in terms of s33 of the Housing (Scotland) Act 1988, both dated 23 June 2017. Said notices required the Respondent to remove from the property as at 7 September 2017. The Respondent confirmed he had received the notices.
3. The Respondent continued to reside in the property at the date of the hearing.
4. The Respondent advised the Tribunal that he did not wish to reside in the property any longer and that he wished to leave.
5. The Applicants are entitled to the order sought for repossession

- Reasons for Decision

The Applicant's solicitor invited the Tribunal to grant the order as sought. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

In terms of s33 of the Housing (Scotland) Act 1988:

- (a) the short assured tenancy has reached its end;
- (b) that tacit relocation is not operating;
- (c) that no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
- (d) that the landlord (or, where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house

The Applicants are entitled to the order sought for repossession

- Decision

The Order sought for repossession of the property known as and forming 158 Main Street, East Calder, EH53 0HE is granted.

### 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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

F Watson

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Legal Member/Chair

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Date

15/2/18.