



**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/19/3955**

**Re: Property at Craigton Farmhouse, Winchburgh, Broxburn, West Lothian,  
EH52 6PY (“the Property”)**

**Parties:**

**The Earl of Hopetoun, Hopetoun Estates Office, Newton, Broxburn, West  
Lothian, EH52 6QD (“the Applicant”)**

**Mr Ben Wentink, Craigton Farmhouse, Winchburgh, Broxburn, West Lothian,  
EH52 6PY (“the Respondent”)**

**Tribunal Members:**

**H Forbes (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 should be  
granted in favour of the Applicant**

**Background**

1. This is an application dated 11<sup>th</sup> December 2019, made under Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The Applicant is seeking an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988 (“the Act”).
2. The Applicant lodged a copy of the tenancy agreement; copy AT5 notice, copy Notice to Quit dated 28<sup>th</sup> August 2019; copy Section 33 Notice dated 28<sup>th</sup> August 2019; and copy Section 11 Notice served on the local authority by email on 11<sup>th</sup> December 2019.
3. The short assured tenancy agreement between the parties in respect of the Property commenced on 1<sup>st</sup> February 2008. The period of let was for one year to 31<sup>st</sup> January 2009, and continuing thereafter on a monthly basis.

4. The Notice to Quit and Section 33 Notice dated 28<sup>th</sup> August 2019 required the Respondent to remove from the Property at or before 31<sup>st</sup> October 2019.
5. The application documentation and intimation of a Case Management Discussion to be held at Riverside House, Gorgie Road, Edinburgh on 10<sup>th</sup> February 2020 were served upon the Respondent by Sheriff Officers on 10<sup>th</sup> January 2020.
6. No written representations were received from the Respondent.

### **The Case Management Discussion**

7. A Case Management Discussion ("CMD") took place at Riverside House, Gorgie Road, Edinburgh on 10<sup>th</sup> February 2020. Neither party was in attendance. The Applicant's representative, Mr Conner McConnell, Solicitor, attended by conference call.
8. The Tribunal considered that, as required by Rule 24(1), the Respondent had been given reasonable notice of the date, time and place of the CMD. Accordingly, the Tribunal proceeded with the application upon the representations and material before it, in terms of Rule 29.
9. Mr McConnell moved the Tribunal to grant the order sought, stating that the requisite Notice to Quit and Section 33 Notice had been served correctly, having been sent by Recorded Delivery and signed for by the Respondent on 31<sup>st</sup> August 2019.

### **Findings in Fact**

10. The parties entered into a short assured tenancy in respect of the Property, commencing on 1<sup>st</sup> February 2008 for a period of one year to 31<sup>st</sup> January 2009, and continuing thereafter on a monthly basis.
11. The Respondent has been served with a Notice to Quit and Section 33 Notice dated 28<sup>th</sup> August 2019 requiring the Respondent to remove from the Property at or before 31<sup>st</sup> October 2019.
12. 31<sup>st</sup> October 2019 is an ish date of the tenancy.
13. Tacit relocation is not in operation.
14. The contractual tenancy has terminated and no other contractual tenancy is in existence.
15. The provisions of section 33 of the Act have been met.

## Reasons for Decision

16. The Tribunal considered that the provisions of section 33 of the Act had been complied with and that the requisite notices were valid and had been served correctly. The tenancy had reached its ish date. Tacit relocation was not in operation and the contractual tenancy had terminated. Notice has been given to the Respondent that the Applicant requires possession of the Property. Accordingly, the Tribunal had no option but to grant the order as sought.

## Decision

17. An order for possession of the Property is granted in favour of the Applicant.

## Right of Appeal

18. 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.

H Forbes

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Legal Member/Chair

10th February 2020  
Date