

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

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**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/19/0308**

**Re: Property at Flat 3/2, 63 Albert Street, Dundee, DD4 6NZ (“the Property”)**

**Parties:**

**Hillcrest Enterprises Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)**

**Mr Steven Mooney, Flat 3/2, 63 Albert Street, Dundee, DD4 6NZ (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a hearing and granted an Order for Possession of the Property**

**Background**

By application dated 28 January 2019, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 10 March 2017 and, if not ended on 11 September 2017, continuing on a monthly basis until terminated by either party in one of the ways set out in the Agreement, and a copy of a Form AT5 Notice, bearing the acknowledgment of the Respondent on 10 March 2017.

The application was also accompanied by copies of a Notice given the Respondent under Section 33 of the 1988 Act and a Notice to Quit, both dated 7 November 2018 and both requiring the Respondent to vacate the Property by 11 January 2019. Proof of service of both Notices by sheriff officer on 9 November 2018 was also provided.

On 6 March 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 22 March 2019.

The respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at Hilltown Community Centre, Alexander Street, Dundee on the morning of 29 March 2019. The Applicant was not present, but was represented by Kirsty Morrison of TC Young, solicitors, Glasgow. The Respondent was not present or represented at the Case Management Discussion. The Applicant's representative asked the Tribunal to grant the application and to make an Order for Possession without a hearing.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations provides that the Tribunal may do anything a case management discussion which it may do a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would decide the application without a hearing.

Section 33 of the 1988 Act provides that the Tribunal shall make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given to the tenant notice the he requires possession of the house.

The Tribunal was satisfied from the Notice to Quit that the tenancy had reached its end and that tacit relocation was not operating and that no further contractual tenancy was for the time being in existence. The Tribunal was also satisfied that the Applicant had given the Respondent the required Notice under Section 33 of the 1988 Act. Accordingly, the requirements of Section 33 had been met and the Tribunal was bound to grant the Order for Possession.

### **Decision**

The Tribunal determined that the application should be decided without a hearing and granted an Order for Possession of 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.**

G Clark

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**Legal Member/Chair**

29 March 2019  
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**Date**