



**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/19/0196

Re: Property at 6 Dick Road, Kilmarnock, KA1 3AP (“the Property”)

Parties:

**T/A Manorcroft, Suite 204 Old Embroidery Mill, Abbey Mill Business Centre,
Paisley, PA1 1TJ (“the Applicant”)**

Mr Brian McKenna, 6 Dick Road, Kilmarnock, KA1 3AP (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

BACKGROUND

1. By lease dated 4 February 2014 the Applicant let the Property to the Respondent;
2. The initial period of lease was for 6 months from 4 February 2014 until 4 August 2014;
3. A notice in terms of s32 of the Housing (Scotland) Act 1988 (the “1988 Act”) - commonly referred to as a Form AT5 - was served on the Respondent, and signed by him, prior to execution of the lease. The tenancy was, accordingly, a Short Assured Tenancy in terms of the 1988 Act;
4. A notice to quit and a notice in terms of s33 of the 1988 Act, each dated 20 July 2018 and each requiring vacant possession on 4 October 2018, were served on the Respondent by sheriff officers on 25 July 2018;
5. A notice in terms of s11 of the Homelessness etc. (Scotland) Act 2003 was intimated to the local authority;

THE CASE MANAGEMENT DISCUSSION

6. After sundry procedure a Case Management Discussion was assigned for 8 July 2019. This was to be dealt with by conference call. The Applicant's representative, Mr John Greenfield, participated in the conference call and the Case Management Discussion;
7. The Respondent did not participate in the Case Management Discussion. An attempt to intimate the proceedings on the Respondent by sheriff officers failed. In accordance with Rule 6A of The First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the proceedings, including details of the Parties, the Property and the place, date and time of the Case Management Discussion, were advertised on the website of the First Tier Tribunal for a period of more than 14 days prior to the Case Management Discussion. That being so, the Tribunal proceeded in the absence of the Respondent;
8. The Applicant moved the Tribunal to grant an order for eviction. The necessary notices required to terminate the tenancy having been served, the Tribunal was required to grant the order sought;

FINDINGS IN FACT

9. The Tribunal made the following findings in fact:-
 - i. By lease dated 4 February 2014 the Applicant let the Property to the Respondent;
 - ii. The initial period of lease was for 6 months from 4 February 2014 until 4 August 2014;
 - iii. A notice in terms of s32 of the 1988 Act was served on the Respondent, and signed by him, prior to execution of the lease. The tenancy was, accordingly, a Short Assured Tenancy in terms of the 1988 Act;
 - iv. A notice to quit and a notice in terms of s33 of the 1988 Act, each dated 20 July 2018 and each requiring vacant possession on 4 October 2018, were served on the Respondent by sheriff officers on 25 July 2018;
 - v. A notice in terms of s11 of the Homelessness etc. (Scotland) Act 2003 was intimated to the local authority;

DECISION

The Tribunal grants order to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property at 6 Dick Road, Kilmarnock, KA1 3AP and to make the same void and redd that the Applicant(s) or others in their name may enter thereon and peaceably possess and enjoy the same.

The order is not to be executed prior to 12 noon on 14 August 2019

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.

Virgil Crawford

Legal Member/Chair

8 July 2019

Date