



**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/19/2913**

**Re: Property at 63 Hailstones Crescent, Armadale, West Lothian, EH48 3PQ  
("the Property")**

**Parties:**

**Miss Michelle Jack, 35 High Academy Street, Armadale, West Lothian, EH48  
3HG ("the Applicant")**

**Mrs Louise FC Hamilton, 63 Hailstones Crescent, Armadale, West Lothian,  
EH48 3PQ ("the Respondent")**

**Tribunal Members:**

**Joel Conn (Legal Member)**

**Decision**

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

**Background**

1. This is an application by the Applicant for an order for possession on termination of a short assured tenancy in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended ("the Procedure Rules"). The tenancy in question was a Short Assured Tenancy of the Property by the Applicant to the Respondent commencing on 15 September 2015.
2. The application was dated 15 September 2019 and lodged with the Tribunal the next day.
3. The application relied upon a Notice to Quit and notice in terms of section 33 of the Housing (Scotland) Act 1988, both dated 3 June 2019, providing the Respondent with notice (respectively) that the Applicant sought to terminate the

Short Assured Tenancy and have the Respondent vacate, each by 14 September 2019. Evidence of service of the said notices by "recorded delivery" post upon the Respondent on 8 June 2019 was provided to the Tribunal.

4. Evidence of a section 11 notice dated 15 October 2019 in terms of the Homelessness Etc. (Scotland) Act 2003 served upon West Lothian Council was provided prior to acceptance of the application.

### **The Hearing**

5. On 18 December 2019, at a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at George House, Edinburgh, I was addressed by the Applicant and the Respondent.
6. The Applicant confirmed that the application for eviction was still insisted upon. The Respondent confirmed that she did not oppose the application and was following guidance from the local authority. When I enquired further, she confirmed that she had been told by the local authority that she required eviction to be granted in order for her to be rehoused. The Respondent confirmed receipt of the papers supporting the application and took no issue with any of them. No order for expenses was sought by either party.

### **Findings in Fact**

7. On 24 August 2015, the Applicant let the Property to the Respondent by lease with a start date of 15 September 2015 until 14 March 2016 ("the Tenancy").
8. The Tenancy thereafter tacitly relocated to the 14 September 2016, 14 March 2017, and the 14<sup>th</sup> of September and 14<sup>th</sup> of March each year thereafter.
9. The Tenancy was a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988 further to the Applicant issuing the Respondent with a notice under section 32 of the 1988 Act (an "AT5") on 28 August 2015, prior to commencement of the Tenancy.
10. On 3 June 2019, the Applicant drafted a Notice to Quit in correct form addressed to the Respondent, giving the Respondent notice that the Applicant wished her to quit the Property by 14 September 2019.
11. On 3 June 2019, the Applicant drafted a Section 33 Notice under the 1988 Act addressed to the Respondent, giving the Respondent notice that the Applicant required possession of the Property by 14 September 2019.
12. 14 September 2019 is an ish date of the Tenancy.
13. On or about 3 June 2019, the Applicant competently served each of the notices upon the Respondent by Royal Mail "recorded delivery" which notices were signed for by the Respondent on 8 June 2019. The Respondent was thus provided with sufficient notice of the Applicant's intention that the Tenancy was to terminate on 14 September 2019.

14. On 15 September 2019, the notice period under the notices having expired, the Applicant raised proceedings for an order for possession with the Tribunal, under Rule 66, the grounds of which being that the Tenancy had reached its end; that tacit relocation was not operating; that no further contractual tenancy was in existence; and that notice had been provided that the Applicant required possession of the Property all in terms of section 33 of the 1988 Act.
15. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon West Lothian Council on or around 15 October 2019 on the Applicant's behalf.
16. On 20 November 2019, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 18 December 2019.

### **Reasons for Decision**

17. The application was in terms of rule 66, being an order for possession upon termination of a short assured tenancy. I was satisfied on the basis of the application and supporting papers that the necessary notices had been served with sufficient notice, the Respondent was extending no defence or dispute to the notices, and thus the requirements of the 1988 Act had been complied with.
18. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. I was thus satisfied to grant an order for possession.

### **Decision**

19. In all the circumstances, I make the decision to grant an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988 in normal terms.

### **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.**

Joel Conn  
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Legal Member/Chair

18 December 2019  
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Date