



**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/19/3351**

**Re: Property at 24 Bowmore Road, Craigton, G52 1AP (“the Property”)**

**Parties:**

**Mrs Amanda Murray, 3 Inchmurrin Gardens, Rutherglen, Glasgow (“the Applicant”)**

**Ms Noreen Bolesworth, 24 Bowmore Road, Craigt  
on, G52 1AP (“the Respondent”)**

**Tribunal Members:**

**Lesley Johnston (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Order for Possession should be granted.**

**Background**

On 16 October 2019 the Applicant applied to the First-tier Tribunal for an Order for eviction of the Respondent from the property at 24 Bowmore Road, Craigton, G52 1AP (‘the property’) under section 33 of the Housing (Scotland) Act 1988 (‘the Act’).

The Applicant lodged the following documents with the application:

1. Copy Short Assured Tenancy between Amanda Murray and Noreen Bolsworth in respect of the property dated 13 February 2012;
2. Copy AT5 Notice signed by the parties in respect of the property dated 13 February 2012;
3. Copy Notice to Quit dated 22 May 2019 issued by the Applicant’s agents to the Respondent;
4. Copy Section 33 Notice dated 22 May 2019 issued by the Applicant’s agents to the Respondent;

5. Sheriff Officers' Certificate of Execution of Service of Notice to Quit and Section 33 Notice dated 30 May 2019;
6. Section 11 Notice issued by the Applicant to Glasgow City Council;
7. Letter of Authority from James Murray authorising Amanda Murray to enter into the lease and deal with all letting and sub-letting of the property on his behalf.

The application complies with Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (as amended) ('the Rules').

### **The Case Management Discussion**

The case called for a Case Management Discussion on 18 December 2019 at 2pm at Glasgow Tribunals Centre.

Ms Caldwell, Solicitor of TC Young Solicitors appeared on behalf of the Applicant.

The Respondent was neither present nor represented.

The application, papers and notice of the hearing were served on the Respondent by Sheriff Officers on 19 November 2019 by depositing the papers within her dwelling-place. In the circumstances, the Tribunal was satisfied that the Respondent was given sufficient notice of the hearing and was content to continue with the Case Management Discussion in her absence (in accordance with rule 29).

Ms Caldwell submitted that a Short Assured Tenancy was entered into between the parties on 13 February 2012 for an initial period of six months (to 13 August 2012), following which the tenancy continued by way of tacit relocation. Ms. Caldwell referred to the AT5 Notice dated 13 February 2012 and signed by the parties.

By Notice to Quit dated 22 May 2019 and served on 30 May 2019 the contractual tenancy was brought to an end to coincide with the end of 13 August 2019.

A section 33 Notice was also served on 30 May 2019.

The Notices gave the requisite period of notice to the Respondent.

Service of both the Notice to Quit and the section 33 Notice was confirmed by way of a Certificate of Service from Sheriff Officers dated 30 May 2019.

Ms Caldwell submitted that the terms of section 33 had been complied with and moved the Tribunal to grant the Order for eviction.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and James Murray are the heritable proprietors of the property;

2. By lease dated 13 February 2012 the Applicant and the Respondent entered into a tenancy agreement in respect of the property;
3. The Applicant is the Landlord of the property;
4. James Murray provided written authority to the Applicant to enter into the lease with the Respondent;
5. The Respondent is the Tenant at the property;
6. The term of the lease was for a period of not less than six months;
7. An AT5 Notice was served at the commencement of the tenancy, the parties having signed the AT5 on 13 February 2012;
8. The Landlord served a Notice to Quit and Section 33 Notice on the Respondent by Sheriff Officers on 30 May 2019. The Notices required the Tenant to give possession by 13 August 2019;
9. A section 11 Notice was issued by the Applicant's agents to Glasgow City Council on 16 October 2019;
10. The application was made to this Tribunal on 16 October 2019
11. The tenant has not removed from the property.

### **Decision**

The Tribunal is satisfied that the lease between the parties is a Short Assured Tenancy in terms of section 32 of the Act. That being the case, the Applicant may seek an Order from the Tribunal under section 33 of the Act.

In terms of section 33 of the Act, the Tribunal shall make an order for possession of the property if the Tribunal is satisfied that:

- (a) the short assured tenancy has reached its ish;
- (b) that tacit relocation is not operating;
- (c) that the landlord has given to the tenant notice stating that he requires possession of the house.

The Tribunal is satisfied that the Application meets the terms of section 33. The lease reached its ish on 13 August 2019. Tacit relocation is not operating. The Notice to Quit and Notice in terms of section 33 of the Act were served on the Respondent giving more than two months' notice.

In these circumstances, the Tribunal has no discretion and therefore grants the Order for Possession.

### **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.**

Lesley Johnston

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**Legal Member/Chair**

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**Date**

18 / 12 / 19