



**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/18/3029**

**Re: Property at 109/7 (1F3), Broughton Road, Edinburgh, EH7 4EQ (“the  
Property”)**

**Parties:**

**Ms Denise Borland, 25 Frogston Road West, Edinburgh, EH10 7AB trading as  
Borland Flat Rental (“the Applicant”) per her agent Pure Property  
Management, 141, Gilmore Place, Edinburgh EH3 9PW (“the Applicant’s  
Agents”)**

**Mr Michael Conway, 109/7 (1F3), Broughton Road, Edinburgh, EH7 4EQ (“the  
Respondent”)**

**Tribunal Members:**

**Karen Moore (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 be granted**

1. By application dated 9 November 2018 (“the Application”), the Applicant’s Agents, on behalf of the Applicant, made an application to the Tribunal for a possession order in terms of Section 33 of the Act and in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The Application comprised copy of a short assured tenancy agreement between the Parties with Notice in terms of Section 32 of the Act (“AT5”), copy Notice in terms of Section 33(1)(d) of the Act, copy Notice to Quit in the correct legal format terminating the tenancy at an ish date of 25 September 2018 and copy Notice in terms of Section 19A of the Act to Edinburgh City Council being the relevant local authority, all with evidence of intimation.

3. On 8 January 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion ("CMD") was fixed for 25 February 2019 at 14.00 at George House, 126, George Street, Edinburgh EH2 4HH. The CMD was adjourned to 5 April 2019 and a formal Direction in terms of Rule 16 of the Rules was issued to both Parties in writing at the CMD. The date of the adjourned CMD and the Direction were also notified to the Parties by recorded delivery and email and an additional reminder was sent to the Respondent by email.
4. The Direction ordered the Respondent to lodge a letter from his doctor in respect of purported consultation on 25 February 2109. The Direction advised the Respondent to seek legal or housing advice and to appoint a representative, if he so wished. The Respondent did not comply with the Direction.

#### **Case Management Discussion**

5. The adjourned CMD took place on 5 April 2019 at 10.00 at the said George House. The Applicant was not present and was represented by Mr. Ashley Puren of the Applicants' Agents who confirmed the Order sought. The Respondent was not present and was not represented.

#### **Findings in Fact**

6. From the Application and the CMD, I found that a tenancy agreement had existed between the parties until terminated by the Applicant by virtue of a competent Notice to Quit served on the Respondents by the Applicant's Agent at the ish, that tacit relocation is not operating and that proper notice had been given by the Applicant to the Respondent that the Applicant requires possession of the Property. I found that the notice in terms of Section 19A of the Act had been properly intimated to the relevant local authority. Accordingly, I found that the statutory and common law provisions required to terminate the tenancy between the parties had been satisfied.

#### **Decision and Reasons for Decision**

7. Having found that the tenancy had been terminated and the correct procedure followed, I had regard to Section 33(1) of the Act which states that, in these circumstances, "the First-tier Tribunal shall make an order" and to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and, accordingly, I determined to grant an Order for possession without further procedure.

#### **Post CMD Note**

The Respondent appeared at the said George House late at 10.15, claiming difficulties with road works and parking ,and after the CMD had completed and the Order was granted. I explained to him that he would receive a copy of the Order by post and that he might wish to take legal advice on its effect.

#### **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.

**K Moore**

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Legal Member/Chair

*5 April 2015*

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Date