

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



**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/18/0957**

**Re: Property at 85 Gateshouse Street, Shettleston, G32 9DB (“the Property”)**

**Parties:**

**Mr Brian Queen, 52 Whitehill Avenue, Glasgow, G33 6BN (“the Applicant”)**

**Miss Jennifer Darroch, Mr Derek Rodden, 85 Gateshouse Street, Shettleston, G32 9DB (“the Respondents”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. This case should be read in conjunction with FTS/HPC/CV/0958.
2. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for recovery of possession in terms of s33 of the Housing (Scotland) Act 1988.
3. The parties entered into a Short Assured Tenancy on 3<sup>rd</sup> July 2015 until 4<sup>th</sup> January 2016 (both days inclusive). The rent payments of £550 were due on or before the 1<sup>st</sup> of each month.
4. The Tribunal had before it the following documents:
  - a. Application dated 19<sup>th</sup> April 2018 and received by the Tribunal on 20<sup>th</sup> April 2018.

- b. Tenancy agreement between the parties signed 3<sup>rd</sup> July 2015 with the commencement of the tenancy on 3<sup>rd</sup> July 2015 for a 6 month period until 4<sup>th</sup> January 2016 and on a month to month basis thereafter.
  - c. Form AT5 signed by the parties on 3<sup>rd</sup> July 2018.
  - d. Copy rent account from 3<sup>rd</sup> October 2017 to 2<sup>nd</sup> May 2018.
  - e. Forms AT6 dated 15<sup>th</sup> March 2018 plus certificate of intimation upon the Respondents dated 16<sup>th</sup> March 2018. The First Named Respondent was served personally and the Second Name Respondent service copy was left with the First Named Respondent at the Property.
  - f. Section 33 Notice dated 9<sup>th</sup> March 2018.
  - g. Notice to Quit dated 9<sup>th</sup> March 2018.
  - h. Notice to Quit dated 8<sup>th</sup> August 2018.
  - i. Title deeds for the Property.
5. A Case Management Discussion ("CMD") was held on 3<sup>rd</sup> July 2018. The case was continued to a further CMD to allow for the Applicant to provide a copy of the section 11 notice and for the First Named Respondent to confirm arrears due by her to the Applicant. The Tribunal was informed that the Second Named Respondent was no longer living in the property. He did not appear at the hearing.

#### Case Management Discussion

6. The Tribunal held a Case Management Discussion ("CMD") on 28<sup>th</sup> June 2018. The Applicant was present. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Applicant stated that he last spoke to the First Named Respondent a few days after the last CMD. The Applicant's Representative stated that she has never had contact with the Second Named Defender since she took over the management of the Property on 1<sup>st</sup> February 2018. She was told by the previous letting agent that he had left the property after a separation.

#### Findings in Fact

7. The parties entered into a Short Assured Tenancy on 3<sup>rd</sup> July 2015 for a 6 month period until 4<sup>th</sup> January 2016 and on a month to month basis thereafter. The lease was signed on 3<sup>rd</sup> July 2015. An AT5 was signed by both parties on the same dates as the lease. The rent payments of £550 were due by the 1<sup>st</sup> day of each month.
8. An Application was received by the Housing and Property Chamber on 20<sup>th</sup> April 2018.

9. The Respondents have not paid any rent payments to the Applicant since October 2017.
10. There has been no payment of Housing Benefit to the Applicant or evidence of forthcoming payments.
11. The First Named Respondent is believed to be in the property as there is still furniture that can be seen in the Property. The Second Named Respondent is believed to have left the Property.
12. The arrears due to the Applicant is in excess of £3850.

#### Reasons for Decision

13. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner. As a consequence the Applicant was entitled to be granted the Order for recovery of possession from both Respondents as both had received the original notices and intimations.

#### Decision

14. The Applicant is entitled to for an order of for recovery of 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.**

GABRIELLE MILLER

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**Legal Member/Chair**

28 Aug 18  
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**Date**