



**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/18/1664**

**Re: Property at 23 Ellisland Road, Clarkston, Glasgow, G76 8QA (“the  
Property”)**

**Parties:**

**Mrs Isobel Lithgow, 48 Abercorn Road, Newton Mearns, Glasgow, G77 6NA  
 (“the Applicant”)**

**Mr Kirsten McAinsh, 23 Ellisland Road, Clarkston, Glasgow, G76 8QA (“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 17<sup>th</sup> February 2016 the Applicant let the Property to the Respondent;
2. Prior to the lease being signed a notice in terms of section 32 of the Housing (Scotland) Act 1988 (“the 1988 Act”) – commonly referred to as an AT5 form – was served on the Respondent. The lease, accordingly, was a “short assured tenancy”;
3. On 23<sup>rd</sup> April 2018 a notice to quit and a notice in terms of s33 of the 1988 Act were served on the Respondent;
4. The Respondent remained within the Property and was still residing there as at the date of the Case Management Discussion;

## **THE CASE MANAGEMENT DISCUSSION**

5. The Applicant did not attend the Case Management Discussion. She was, however, represented by Mr W Crawford, Looking to Rent, Glasgow;
6. The Respondent did not attend. Details of the application and the Case Management Discussion had been served upon her by Sheriff Officers. In accordance with Rule 29 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the FTT Rules"), the Tribunal, being satisfied that in terms of Rule 24 of the FTT Rules that the Respondent had been given reasonable notice of the date, time and place of the Case Management Discussion, proceeded in the absence of the Respondent;
7. The Tribunal had been provided with:-
  - a) A copy of the lease;
  - b) A copy of the notice in terms of s32 of the 1988 Act;
  - c) A copy Notice to Quit which had been served timeously;
  - d) A copy Notice in terms of s33 of the 1988 Act which had been served timeously;
  - e) A copy notice intimated to the local authority in terms of s11 of the Homelessness etc. (Scotland) Act;

## **FINDINGS IN FACT**

8. By lease dated 17<sup>th</sup> February 2018 the Applicant let the Property to the Respondent;
9. The lease is a short assured tenancy;
10. On 23<sup>rd</sup> April 2018 the Applicant's agents served a notice to quit and a notice in terms of s33 of the 1988 Act upon the Respondent. These notices were served and received more than 2 months prior to the date on which vacant possession was required;
11. A notice in terms of s11 of the Homelessness etc. (Scotland) Act 2003 had been intimated to the local authority

## **REASONS FOR DECISION**

12. In the circumstances, as a matter of law, the lease being a short assured tenancy and the notices required to terminate it having been timeously served, the Tribunal was required to grant the order sought.

## **DECISION**

The Tribunal granted an order removing the Respondent from the Property and granting possession of it to the Applicant.

## **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

**19/10/18**

**Legal Member/Chair**

**Date**