

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

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**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/18/1854**

**Re: Property at 6b King Street, Kirkcaldy, KY2 5JR (“the Property”)**

**Parties:**

**Brammeld & Simpson, PO Box 26772, Kirkcaldy, KY1 1ZF (“the Applicant”)**

**Miss Natalie Livingstone, Mr Paul Kane, 6b King Street, Kirkcaldy, KY2 5JR (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants were entitled to an order for possession of the property and the eviction of the Respondents.**

**Background**

1. By application dated 23 July 2018 the Applicants applied to the Tribunal for an order for possession of the property and the eviction of the Respondents on the ground that there was a Short Assured Tenancy agreement in place between the parties that had reached its end and that the tenancy was therefore at an end.
2. In support of their application the Applicants provided the Tribunal with copies of the Tenancy Agreement, Forms AT5, Notices to Quit, Section 33 Notices and Sheriff Officers Certificates of Intimation.
3. Following further correspondence between the Tribunal and the Applicants a legal member with delegated powers by Notice of Acceptance dated 27 August 2018 accepted the application.

4. A Case Management Discussion was fixed to take place on 9 October 2018 at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy KY11 1XT
5. Intimation of the Case Management Discussion was given to the Applicants by post on 8 September 2018 and to the Respondents by Sheriff Officers on 10 September 2018.

### **Case Management Discussion**

6. The Case management Discussion was held on 9 October 2018 at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy. It was attended by Mr Colin Brammald on behalf of the Applicants. There was no appearance by the Respondents.
7. In accordance with Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules") the Tribunal being satisfied that proper intimation of the hearing had been given to the Respondents proceeded with the Case Management Discussion in their absence.
8. Mr Brammald confirmed that the Form AT5s had been given to the Respondents on 8 November 2017 at 2.15pm prior to the Respondents signing the lease at 2.40pm the same day thus creating a valid Short Assured Tenancy that ran for a period of six months and one day, ending on 9 May 2018.
9. Mr Brammald also confirmed that Sheriff Officers had served the appropriate Notices to Quit and Section 33 Notices on the Respondent on 7 March 2018 and referred to the Certificates of Intimation lodged with the application.
10. According to Mr Brammald the Respondents remained in occupation of the property. They were in receipt of Universal Credit. Prior to the Respondents receiving Universal Credit they had received Housing Benefit that had been paid to the Applicants direct. Since receiving Universal Credit the Respondents had been paid the rent money into their account and had not paid rent to the Applicants. The rent arrears were around £2300.00. Mr Brammald accepted that was not a relevant consideration for the Tribunal as the Applicants were seeking possession on the basis that the tenancy had come to an end.
11. Mr Brammald on behalf of the Applicants asked the Tribunal to grant an order for possession of the property and the eviction of the Respondents.

### **Findings in Fact**

12. The property was let to the Respondents by the Applicants on a Short Assured Tenancy that commenced on 8 November 2017 and ended on 9 May 2018.

13. Notices to Quit and Section 33 Notices were served by Sheriff Officers on the Respondents on 7 March 2018.
14. The Respondents tenancy came to an end on 9 May 2018.
15. The Respondents have remained in occupation of the property since that date.
16. The Applicants sent a Section 11 Notice to Fife Council at the commencement of these proceedings.

### **Reasons for Decision**

17. The Tribunal was satisfied that there was a Short Assured Tenancy agreement in place between the parties that had commenced on 8 November 2017 and had been ended on 9 May 2018 following proper service of the required notices upon the Respondents by Sheriff Officers.
18. The Respondents had been given an opportunity to attend the Case Management Discussion to put forward any opposition to the application or to dispute any facts. They had not done so.
19. In all the circumstances the Tribunal was satisfied that the documents provided by the Applicants were in order, the factual position as stated by Mr Brammald appeared to be correct and therefore the order sought by the Applicants should be granted.

### **Decision**

20. The Applicants are entitled to an order against the Respondents for possession of the property and the eviction of the Respondents.

### **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.**

Graham Harding

Legal Member/Chair

Date

9 October 2018