

**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 (“the Act”)**

**Chamber Ref: FTS/HPC/EV/19/3281**

**Re: Property at 11 Commonsides Street, Airdrie, ML6 6NQ (“the Property”)**

**Parties:**

**Mr Kenny Davidson, 78 Bredie Drive, Milngavie, Glasgow, G62 6LR (“the Applicant”)**

**Mr Allan MacIntyre, Mrs Karen MacIntyre, 11 Commonsides Street, Airdrie, ML6 6NQ (“the Respondent”)**

**Tribunal Members:**

**Steven Quither (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession is granted under s33 of the Act**

**1. BACKGROUND**

By a Rental Agreement commencing 8 October 2010, the parties agreed that as from that date the Respondents would rent the Property from the Applicant for a rent of £395 per calendar month, initially for a 6 month period but which then continued by tacit relocation. The Agreement was set up as a Short Assured Tenancy, specifically acknowledged and confirmed by the Respondent in Paragraph 34 of same.

This application to bring the Agreement to an end was made on 11 October 2019 and in support of same the Applicant lodged the Agreement, s33 Notice and Notice to Quit, together with Sheriff Officer executions of service in respect of said Notices dated 27 May 2019 in respect of service on both Respondents. Both Notices gave notice for the Respondents to leave the Property by 8 October 2019. Of note, there was no AT5 form lodged, but I was aware of the provisions of Paragraph 34 of the Agreement, to which I have previously referred.

S.Q

Confirmation that the application had also been intimated to the relevant local authority under s11 of the Homelessness etc. (Scotland) Act 2003 was also available, from which I noted that the appropriate intimation had been made on 10 October 2019.

## **2. CASE MANAGEMENT DISCUSSION**

This took place on 13 December, when only the Applicant's agent appeared. I was satisfied that both Respondents had adequate notice of the CMD, since there was Sheriff Officer executions of service from 14 November of the relevant documentation for same. Accordingly, I was satisfied the CMD could proceed in the absence of the Respondents.

The Applicant's agent confirmed that there was every indication the Respondents had already moved out of the Property but that there had been no contact with or about them for some months, with the exception of some routine correspondence with the local authority about Housing Benefit.

She addressed me on the "missing" AT5 by reference to Paragraph 34 of the Agreement and confirmed that the parties had proceeded with the rental in pursuance of the Rental Agreement. In the passage of time since the Agreement was entered into, she suspected the original AT5 had been mislaid.

In view of the provisions of said Paragraph 34, I was satisfied that the parties proceeded on the understanding that the Rental Agreement constituted a Short Assured Tenancy.

## **3. FINDINGS IN FACT**

Based on the documentation produced and representations made in support of the application, I found that the parties entered into a Short Assured Tenancy commencing 8 October 2010 whereby the Respondents rented the Property from the Applicant for £395 per calendar month, initially for 6 months but then continuing by tacit relocation until these proceedings.

I found that all requisite Notices and notice of today's proceedings had been timeously served on the Respondents and also that these proceedings had been properly intimated to the relevant local authority.

## **4. REASONS FOR DECISION**

Since these proceedings related to a Short Assured Tenancy and I was satisfied that all relevant steps to bring same to an end had been correctly and timeously taken, I was satisfied I could make the order for repossession sought.

## **5. DECISION**

To grant the order for repossession sought by the Applicant.

S.Q

## **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.**

**SR QUITHER  
Legal Member/**

**13 DECEMBER 2019  
Date**