



**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/18/1106

**Re: Property at 14 Primrose Street, Carnoustie, Angus, DD7 7QB (“the
Property”)**

Parties:

**Mr Brian Henderson, 41 Harris Road, Carnoustie, Angus, DD7 7NS (“the
Applicant”)**

**Baillie Shepherd Solicitors, 37 Union Street, Dundee, DD1 4BS (“the
Applicant’s Agent”)**

**Ms Siobhan Thomson, 14 Primrose Street, Carnoustie, Angus, DD7 7QB (“the
Respondent”)**

Tribunal Members:

Ruth O’Hare (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to make an order for repossession of the Property
against the Respondent**

Background

- 1 By application dated 8th May 2018, the Applicant sought an order for recovery of possession of the Property under Rule 109 of the First-tier Tribunal (Housing and Property Chamber) Procedure Regulations 2017.
- 2 Following submission of the application, a Case Management Discussion was assigned for the 15th August 2018. A copy of the application together with citation was served on the Respondent by Sheriff Officers on 16th July 2018. No written representations were received from her in response.

Case Management Discussion

- 3 The Case Management Discussion took place on 15th August 2018. The Applicant was represented by Mrs Royle on behalf of the Applicant's Agent. The Respondent was not present.
- 4 Mrs Royle submitted that there had been no contact from the Respondent following submission of the application. She confirmed that a valid Notice to Quit and Notice under section 33(1)(d) of the Housing (Scotland) Act 1988 had been served on the Respondent by recorded delivery on 22nd February 2018. The tenancy had been terminated as at 7 May 2018. The Applicant therefore sought an order for repossession.

Findings in Fact

- 5 The Applicant and the Respondent entered into a Tenancy Agreement dated 2 March 2011 in respect of the Property.
- 6 The tenancy was a short assured tenancy as defined by section 32 of the Housing (Scotland) Act 1988.
- 7 The tenancy commenced on 7 March 2011 for a period of six months and monthly thereafter.
- 8 On 22 February 2018 the Respondent was served with a Notice to Quit terminating the tenancy as at 7 May 2018 and Notice intimating that the Landlord required possession of the house. Both Notices were served by recorded delivery mail.
- 9 The tenancy has reached its end as at 7 May 2018. Tacit relocation is not operating.

Reasons for Decision

- 10 In this case the Applicant seeks an order for repossession of a short assured tenancy under section 33 of the Housing (Scotland) Act 1988
- 11 The Respondent had not availed herself of the opportunity to attend the Case Management Discussion and had not sought to dispute the terms of the application. Having considered the verbal and written representations from the Applicant the Tribunal was satisfied at the Case Management Discussion that it was able to make sufficient findings to determine the

case without a hearing and that to do so would not be prejudicial to the interests of the parties.

12 Section 33(1) of the Housing (Scotland) Act 1988 provides as follows:-

“(1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal shall make an order for possession of the house if the Tribunal is satisfied—

(a) That the short assured tenancy has reached its finish;

(b) That tacit relocation is not operating;

(c)and

(d) That the landlord (or where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house.”

13 The Tribunal was satisfied having regard to the written and verbal representations from the Applicant that a valid Notice to Quit had been properly served on the Applicant which terminated the contractual tenancy between the parties as at 7 May 2018, tacit relocation was not operating and the Respondent had been given notice that the Applicant required possession of the Property. The Tribunal therefore concluded that the provisions of section 33 had been met and determined to make an order for repossession.

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.

Ruth O'Hare

✓ Legal Member/Chair

_____ Date

15/8/18