

**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/18/1593**

**Re: Property at 16 Stobo Street, Coltness, Wishaw, ML2 0QW (“the Property”)**

**Parties:**

**Mr Kenneth Stewart, 1 Barrachnie Grove, Glasgow, G69 6SS (“the Applicant”)**

**Mrs Maureen Hamilton, 16 Stobo Street, Coltness, Wishaw, ML2 0QW (“the Respondent”)**

**Tribunal Members:**

**Jim Bauld (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted**

**Background**

By application received on 27 June 2018, the applicant sought an order under section 33 of the Housing (Scotland) Act 1988 and in terms of rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

On 5 July 2018, the application was accepted by the Tribunal and referred for determination by the tribunal.

A Case Management Discussion was set to take place on 4 September 2018 and appropriate intimation of that hearing was given to both the landlord and the tenant

## **The Case Management Discussion**

The Case Management Discussion (CMD) took place on 4 September 2018. The applicant attended. The respondent did not attend.

The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters. The tribunal asked various questions with regard to the application and the applicant confirmed that he wished the tribunal to grant the order sought in the application.

## **Findings in Fact**

The Applicant and the Respondent as respectively the landlord and tenant entered into a tenancy of the property on 21 August 2015.

The tenancy was a short assured tenancy in terms of the Act.

On 18 April 2018 the applicant served upon the tenant a notice to quit and a notice in terms of section 33 (1) (d) of the Act. These notices were served on the respondent by sheriff officers. Said notices became effective on 21 June 2018.

The notices informed the tenant that the landlord wished to seek recovery of possession using the provisions of section 33 of the Act.

The notices were correctly drafted and gave appropriate periods of notice as required by law.

The basis for the order for possession was accordingly established.

## **Reasons for Decision**

Section 33 of the Act states that the tribunal must grant an order for possession of a short assured tenancy where the short assured tenancy has reached its term, that tacit relocation is not operating, where no new contractual tenancy has been agreed between landlord and tenant and where the landlord has given notice to the tenant in the manner required by section 33 (1) (d).

The tribunal were satisfied that all of these requirements had been met by the service of the relevant notices and from the evidence given by the landlord.

Accordingly the tribunal was satisfied that the reason for the order for possession had been established and that in terms of the relevant section, the tribunal was obliged to grant the order sought.

## Decision

The order for recovery of possession is granted

## 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.

**Jim Bauld**

Legal Member/Chair

Date

*4 September 2018*