



**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/18/1736

Re: Property at 3/1, 11 Westmuir Street, Glasgow, G31 5EH (“the Property”)

Parties:

**KPM Estates Limited, Exchange House, 54-58 Athol Street, Douglas, IM1 1JD
 (“the Applicant”)**

**Mr Kelvin Milloy, 3/1, 11 Westmuir Street, Glasgow, G31 5EH (“the
 Respondent”)**

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Applicant and Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
 Tribunal”) determined that**

Background

This is an application dated 10th July 2018 brought in terms of Rule 66 (Application for order for possession upon termination of a short assured tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant provided with its application copies of the short assured tenancy agreement, form AT5, Notice to Quit, Section 33 notice, Section 11 notice, and evidence of service.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 3rd September 2018, and I was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was scheduled to be held on 20th September 2018 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear, nor was it represented. The Respondent did not appear, nor was he represented.

The Applicant had previously e-mailed the Tribunal on 14th September 2018 advising that it would not be able to have a representative attend the Case Management Discussion, but was happy for it to proceed based upon the evidence and paperwork provided with the application.

As neither party, nor representatives of either party, attended, the Case Management Discussion did not take place.

However, the Tribunal has power to determine the proceedings without a hearing under Rule 18 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, which provides that it may make a decision if having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case, and to do so will not be contrary to the interests of the parties. Before making a decision without a hearing, the Tribunal must consider any written representations submitted by the parties.

The Tribunal considered that having regard to the e-mail of 14th September from the Applicant, the application and documents provided by the Applicant, and the absence of any representations or response from the Respondent, it is able to make sufficient findings to determine the case from the material available to it and in the absence of any response from the Respondent. The Tribunal did not consider that to do so would be contrary to the interests of the parties.

Statement of Reasons

In terms of Section 33 of the *Housing (Scotland) Act 1988*, the Tribunal shall make an order for possession of the house let on the tenancy if:

- (a) the short assured tenancy has reached its end;
- (b) tacit relocation is not operating;
- (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
- (d) the landlord has given to the tenant notice stating that he requires possession of the house.

All of the above criteria have been satisfied in this application, and accordingly the Tribunal shall make an order for possession.

Decision

In these circumstances, I will make an order for possession of the house let on the tenancy as sought in this application.

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.

Neil Kinnear

Legal Member/Chair

20/09/18

Date