



**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/23/4172

**Property: Cotlands View, Halfields Court, Kennoway, Leven KY8 5JJ
("Property")**

Parties:

**Peter Barclay and Izabella Barclay, 24 Pentland View, Kennoway KY8 5TY
("Applicant")**

**Streets Ahead Scotland Ltd, 315 High Street, Kircaldy KY1 1JL ("Applicant's
Representative")**

**Denise Lewis, Cotlands View, Halfields Court, Kennoway, Leven KY8 5JJ
("Respondent")**

Tribunal Members:

Joan Devine (Legal Member)

Janine Green (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
("Tribunal") determined that an order for possession of the Property should be
made.**

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement and AT5 dated 5 January 2016; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 19 June 2023 and both addressed to the Respondent; sheriff officer certificate of service evidencing service of the Notice to Quit and Section 33 Notice on the Respondent on 23 June 2023 and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 22 November 2023. The Tribunal had sight of a sheriff officer's execution of service confirming service of the Application on the Respondent on 24 January 2024.

Case Management Discussion (“CMD”)

A CMD took place on 11 March 2024. Jacqueline Barr of the Applicant’s Representative was in attendance. There was no appearance by the Respondent. Ms Barr told the Tribunal that there had been no recent contact with the Respondent. She said that the Respondent had not paid rent for the Property since September 2023. Ms Barr told the Tribunal that the Applicants were elderly and wished to sell the Property.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 5 January 2016.
2. The tenancy was for the period 5 January 2016 to 5 July 2016 and month to month thereafter.
3. A Notice to Quit dated 19 June 2023 was served on the Respondent on 23 June 2023 stating that the tenancy would terminate on 5 September 2023.
4. A Notice in terms of Section 33 of the 1988 Act dated 19 June 2023 was served on the Respondent on 23 June 2023 stating that possession of the property was required on 5 September 2023.
5. The tenancy reached its *ish* on 5 September 2023 and is not continuing by tacit relocation.
6. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy and that a Section 33 Notice and Notice to Quit had been served on the Respondent giving two months’ notice that the Applicant required possession of the Property. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order

Decision

The Tribunal grants an Order for possession of the Property.

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.

Legal Member

Date : 11 March 2024