

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**

Chamber Ref: FTS/HPC/EV/18/0739

**Re: Property at Lower Floor Flat, Hill House, Gordon Terrace, Annan, DG12
6SD ("the Property")**

Parties:

**Home Buyers UK Limited, Sterling House, 20 Victoria Way, Burgess Hill, West
Sussex, RH15 9NF ("the Applicant")**

**Lee Davies, Lower Floor Flat, Hill House, Gordon Terrace, Annan, DG12 6SD
("the Respondent")**

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

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

Background

An application was received under rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the 2017 Rules") seeking recovery of possession under a short assured tenancy by the applicant against the respondent for the property.

The application contained the tenancy agreement, an AT5 form, a copy of the Section 33 Notice, a copy of the Notice to Quit, certificate of service by recorded delivery for the notice to quit and the section 33 notice, and Section 11 Notice.

The Notice of the Hearing had been served on the respondent by sheriff officers on 11 July 2018.

Ms Raymond, a local agent had been instructed by the Applicant's agents to appear on behalf of the applicant. There was no appearance by the respondent. As I was satisfied that the respondent had been given formal notice of the today's case management discussion I was prepared to proceed with it in his absence.

Case Management Discussion

The applicant moved the order for recovery of possession be granted today referring me to the papers which had been lodged in support of the application, including the tenancy agreement, notice to quit, Section 33 notice and certificate of service. She confirmed that the applicant had served the notice to quit and section 33 notice on the respondent. She advised me that the signed tenancy agreement confirmed at clause 31 that the respondent acknowledged that he had received an AT5 form prior to the creation of the tenancy. She also confirmed that a section 11 notice had been served on the local authority. She also addressed me on the interest of the applicant as landlord, as the current landlords' acquired the property in February 2016, she referred me to the title sheet showing ownership of the property, and submitted that the landlords' interest now vests in the Applicant. She confirmed that the respondent had failed to remove himself from the property.

Findings in Fact

I found the following facts established.

That there was a tenancy agreement between the applicant and the respondent in respect of the property. It commenced on 1 October 2014 for an initial period of 6 months until 1 April 2015, and it continued thereafter on a month to month basis.

The tenancy provided that in the event that that the landlord wished to terminate the lease he had to provide two months' written notice; and to serve a notice to quit.

The tenancy agreement had been signed by the parties on 12 September 2014 at 7pm. The Tenancy agreement at clause 31 provided that the respondent acknowledged that he was served with an AT5 before the creation of the tenancy.

I was satisfied that a short assured tenancy had been created.

The notice to quit and section 33 notices both contained the prescribed information; the notice to quit was dated 27 July 2017 and both sought vacant possession as at 1 October 2017. Both provided more than 2 months' notice of vacant possession. A recorded delivery slip was provided which was dated 27 July 2017. The landlord's agents advised that the these notices had been served on the respondent.

I was satisfied with the terms of these notices and that it appeared that they had been served on the respondent.

Reasons for Decision

Section 33 of the 1988 Act requires me to grant an order for possession under a short assured tenancy, where the tenancy has reached its ish; tacit relocation is not operating; no further contractual tenancy for the time being is in existence; and the landlord has given notice to the tenant that they require possession of the house. I am satisfied that these requirements have been met and I consider therefore that I require to grant an order for eviction under section 33 of the 1988 Act

Decision

I grant an order in favour of the applicant against the respondent for recovery of 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.

Melanie Barbour

Legal Member/Chair

Date

9. 8. 18