



**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 (hereinafter referred to as “the 1988 Act”) for Recovery of Possession
of a Short Assured Tenancy**

Chamber Ref: FTS/HPC/EV/19/2779

**Re: Property at 75 Colinton Mains Road, Edinburgh, EH13 9DL (“the
Property”)**

Parties:

**Mr John Paul Fairchild, Mrs Lillian Elaine Fairchild, 2 Mortonhall Park Green,
Edinburgh, EH17 8SP (“the Applicant”)**

**Mr Steven Watt, Mrs Shirley Watt, 75 Colinton Mains Road, Edinburgh, EH13
9DL (“the Respondents”)**

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for Recovery of Possession on termination of a Short Assured Tenancy under Section 33 of the Housing (Scotland) Act 1988. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained to parties. Parties understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant was represented by Kirsty Morrison, TC Young Solicitors, 7 West George Street, Glasgow, G2 1BA

The Respondents attended the Tribunal personally without representation.

Preliminary Matters

There were no preliminary matters arising.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

Case Management Discussion

Ms Morrison for the Applicant in her submission stated that the Applicant’s sought an Order for recovery of possession and that they were heritable proprietors of the property. Further that parties had entered into a Short Assured tenancy on 8th November 2011. It was agreed the tenancy was a valid Short Assured Tenancy and that the Respondents had received a Notice to Quit by Sheriff Officer bringing the said tenancy to an end on the ish date, namely the 12th May 2019. The Respondents said that they had acted very promptly on receipt of the Notice to Quit but had struggled to find alternative accommodation for their family. The Respondents had clearly taken a lot of effort to seek alternative accommodation. Parties agreed to discuss the process of eviction out with the hearing given the efforts of the Respondents however in the circumstances the Tribunal had sufficient information to make a final decision in the case. Parties understood this.

Facts Agreed Between Parties

- 1. Both parties accepted that the Applicant was the heritable proprietor of the Property.**
- 2. Both parties accepted that the AT5 had been served correctly at the outset of the tenancy and that the tenancy was a short assured tenancy.**
- 3. Both parties accepted that the relevant notices were valid and had been served terminating the short assured tenancy, proof of appropriate service having been lodged.**
- 4. The Respondents had been unable to leave the property prior to the Hearing due to having been unable to secure alternative accommodation.**

Reasons for Decision

- 5. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.**
- 6. The Tribunal was satisfied that the tenancy was in terms of Section 32(1) of the 1988 Act, a Short Assured Tenancy for not less than 6 months and in relation to which a prescribed notice namely a valid AT5 had been served before creation of the short assured tenancy. The Respondent**

saccepted that the AT5 had been served correctly at the outset of the tenancy.

7. In terms of Section 33 of the 1988 Act the Tribunal considered that the Short Assured Tenancy had reached its ish.
8. Further the Tribunal was satisfied that no tacit relocation was operating, no further contractual tenancy was in existence and a vaild Notice to Quit had been served on the Respondents terminating the tenancy with the necessary notice given to the Respondents.
9. The Respondents accepted that the relevant notices had been received by them. Proof of a correct method of service of the Notice to Quit had been lodged. They had indicated they intended to leave the property but had been unable to secure alternative housing.
10. Accordingly in terms of Section 33 of the 1988 Act the Tribunal granted an order against the Respondent 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/Chair

Date