

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/19/2125

Re: Property at 7 Kingsmills Court, Elgin, IV30 4EW (“the Property”)

Parties:

Mr Stephen Parker, Mrs Gillian Parker, L'Abbaye des Chateliers, 79340, Fomperron, France (“the Applicant”)

Mrs Dorata Ewa Ofat, 7 Kingsmills Court, Elgin, IV30 4EW (“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

1. 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 Applicants against the Respondent for the property.
2. The application contained :-
 - A copy of the tenancy agreement,
 - a copy of the AT5,
 - a copy of the Section 33 Notice,
 - a copy of the Notice to Quit,
 - evidence of service by sheriff officers, and
 - Section 11 Notice.

3. The Notice of the Hearing had been served on the Respondent by sheriff officers on 8 August 2019.
4. Today's case management discussion was held by telephone conference call. Stephen Parker, the first Applicant called in and took part on behalf of both Applicants. The Respondent did not call in and did not take part in the case management discussion. As I was satisfied that the Respondent had received notice of today's hearing I was prepared to proceed in her absence.

Case Management Discussion

5. I was referred to the papers lodged in support of the application, including the tenancy agreement, AT5, notice to quit, Section 33 notice, section 11 notices and sheriff officers certificate.

Findings in Fact

6. I found the following facts established:-
7. That there was a tenancy agreement between the Applicants and the Respondent in respect of the property.
8. That it had commenced on 7 July 2015 for an initial period of 6 months. The agreement was for an initial period of 6 months and it would be renewed 6 monthly thereafter.
9. The tenancy agreement had been signed by the parties on 7 July 2015.
10. The AT5 Form was in the prescribed format and there was evidence that it had been given to the Respondent prior to the creation of the tenancy agreement.
11. The notice to quit and section 33 notices contained the prescribed information and both were dated 1 May 2019, both sought vacant possession as at 7 July 2019. Both provided more than 2 months' notice that vacant possession was sought.

Reasons for Decision

12. 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 end; 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.
13. I was satisfied that a short assured tenancy had been created.

14. I was satisfied with the terms of the section 33 notice and the notice to quit. I was also satisfied that these notices had been served on the Respondent.

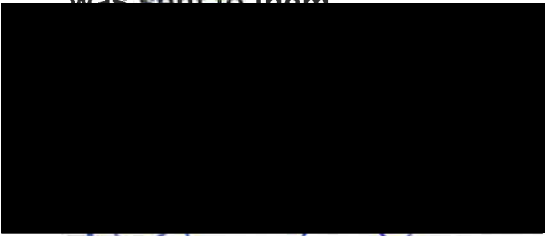
15. I was satisfied that all of the requirements of section 33 had been met and I consider therefore that I am required to grant an order for eviction under section 33 of the Housing (Scotland) Act 1988.

Decision

I grant an order in favour of the Applicants 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.



Legal Member/Chair

10.9.19

Date