

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/23/3207

Property: 84 Harbour Street, Nairn IV12 4PG ("Property")

Parties:

Charlotte Mutch, 1 Overton Circle, Dyce AB21 7FQ and Chris Mutch, 1 Gordon Avenue, London SW14 8DZ ("Applicant")

e2w Property Services, 118 High Street, Nairn IV12 4DE ("Applicant's Representative")

Darren McCombe and Hayley Baird, 84 Harbour Street, Nairn IV12 4PG ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Elizabeth Williams (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 dated 3 and 8 November 2017; AT5 dated 3 November 2017; 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; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 11 September 2023; Royal Mail proof of delivery of the Notice to Quit and Notice in terms of section 33 of the 1988 Act on 21 June 2023; letter from the Second Applicant dated 3 November 2023 stating that whilst he held title to the Property he authorised the First Applicant to enter in the Short Assured Tenancy Agreement on his behalf and to instruct the Applicant's Representative in the marketing and sale of

the Property and letter from the Applicant's Representative to the First Respondent providing a fee quotation for selling the Property. The Tribunal had sight of a sheriff officer's execution of service confirming service of the Application on the Respondent on 20 December 2023.

Case Management Discussion ("CMD")

A CMD took place on 13 February 2024. Laura Ewan of the Applicant's Representative was in attendance along with the Second Applicant. Both Respondents were also in attendance. Mr Mccombe told the Tribunal that he and Ms Baird had just signed for keys for a new property and their tenancy started that day. He said that the Application was therefore not opposed and the Respondent would remove from the Property within the month. Ms Ewan told the Tribunal she had been in contact with the local authority and was aware that the Respondent had been provided with alternative accommodation. She confirmed that the Second Respondent intends to sell the Property.

Findings in Fact

The Tribunal made the following findings in fact:

1. The First Applicant (as agent for the second Applicant) and the Respondent had entered into a tenancy agreement dated 3 and 8 November 2017.
2. The tenancy was for the period 8 November 2017 to 9 November 2018 and thereafter continuing on a 2 monthly basis.
3. A Notice to Quit dated 19 June 2023 was served on the Respondent stating that the tenancy would terminate on 9 September 2023.
4. A Notice in terms of Section 33 of the 1988 Act dated 19 June 2023 was served on the Respondent stating that possession of the property was required on 9 September 2023.
5. The tenancy reached its *ish* on 9 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

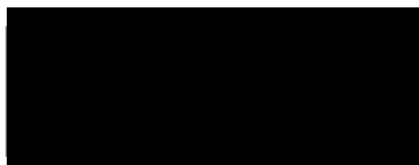
had been served on the Respondent giving two months' notice that the Applicant required possession of the Property. Having considered all of the circumstances, and in light of the Respondent having arranged alternative accommodation, the Tribunal determined that it was reasonable to issue an eviction 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 : 13 February 2023