



**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/24/0897

Property: 3 Calder Place, Kilmarnock KA1 3QL ("Property")

Parties:

Ryan James Dick, 11 Cochrane Place, Newmilns KA16 9EY ("Applicant")

**Taylor & Henderson, 51 Hamilton Street, Saltcoats KA21 5DX ("Applicant's
Representative")**

Poo Cheng Teh, 3 Calder Place, Kilmarnock KA1 3QL ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Helen Barclay (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 17 June 2014; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 13 November 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 14 November 2023 and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering letter dated 7 February 2024. The Tribunal had sight of a sheriff officer's execution of service confirming service of the Application on the Respondent on 17 June 2024.

Case Management Discussion (“CMD”)

A CMD took place on 19 July 2024. Barbara Black of the Applicant’s Representative was in attendance. There was no appearance by or on behalf of the Respondent.

Ms Black told the Tribunal that the Applicant had contact with the Respondent around 4 weeks ago and she had told him that she had identified an alternative property and was moving out. However the Applicant had confirmed earlier that day that the Respondent remains in the Property. Ms Black said there seemed to be a pattern of the Respondent saying she was packing up her belongings but she did not actually move out. Ms Black said that the rent was paid up to date. She said that the Applicant intended to sell the Property to his daughter who was a “first time buyer”. She said that had always been the Applicant’s long term plan. Ms Black said that the Respondent lives in the Property alone.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 17 June 2014.
2. The tenancy was for the period 17 June 2014 to 17 December 2014 and month to month thereafter.
3. A Notice to Quit dated 13 November 2023 was served on the Respondent on 14 November 2023 stating that the tenancy would terminate on 17 January 2024.
4. A Notice in terms of Section 33 of the 1988 Act dated 13 November 2023 was served on the Respondent on 14 November 2023 stating that possession of the property was required on 17 January 2024.
5. The tenancy reached its *ish* on 17 January 2024 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.

Joan Devine

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Legal Member

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Date : 19 July 2024