



**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/24/0092

Re: Property at 10 Woodburn Grove, Dalkeith, EH22 2BT (“the Property”)

Parties:

**Mrs Heather Burnside, c/o CMG Residential, 2 Rullion Green Grove, Penicuik,
EH26 0RX (“the Applicant”)**

**Mr Ilmars Alksne, Mrs Inese Alksne, 10 Woodburn Grove, Dalkeith, EH22 2BT
 (“the Respondent”)**

Tribunal Members:

Melanie Barbour (Legal Member) and Mike Scott (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that it should grant an order for recovery of possession**

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 of the property under a short, assured tenancy granted by the Applicants to the Respondents.

2. The application contained: -
 - a. A copy of the tenancy agreement,
 - b. a copy of the AT5,
 - c. a copy of the Section 33 Notice,
 - d. a copy of the Notice to Quit,
 - e. evidence of service,
 - f. Section 11 Notice, and

3. The case called for a case management discussion on 22 July 2024. Appearing were the Applicant's agent Mr Callum McGregor and both Respondents.

Case Management Discussion

4. The Applicants' agent advised was seeking an order for eviction. The landlord needs the property to be returned to her. Her son has left university, and she needs somewhere for her son to live. The landlord had instructed the agent to issue the appropriate paperwork to recover the property. The agent had drafted and served the section 33, notice to quit and section 11 notices. They had been lodged with the application.

5. The respondents advised that they were not opposed to the application being granted. They just wanted to know when they will be evicted as they need to tell the council. They advised that they have nowhere else to live. They have approached the council about the eviction application. The council have told them to advise the council of the outcome of today's case management discussion. They believed that the council would assist them in getting other accommodation.

Findings in Fact

6. We found the following facts established: -
7. That there was in place a short, assured tenancy.
8. The tenancy was between the Burnside Properties and the respondents. The applicant is the heritable owner of the property.
9. The tenancy commenced on 1 November 2017 for an initial period of 6 months until 1 May 2018. Thereafter it continued on a month-to-month basis.
10. The AT5 Form was in the prescribed format and was signed and dated 1 November 2017.
11. The notice to quit and section 33 notices contained the prescribed information, and both were dated 6 October 2023, both sought vacant possession as of 1 January 2024. Both provided more than 2 months' notice that vacant possession was sought. There was evidence of service of the notices. The notice to quit terminated the tenancy on an *ish* date.
12. There was a section 11 notice addressed to the local authority.
13. The respondents did not oppose the order being granted.
14. The applicant wanted the property for her son to live in.

Reasons for Decision

15. Section 33 of the 1988 Act requires the tribunal 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; the landlord has given notice to the tenant that they require possession of the house; and where it is reasonable to do so.

16. We were satisfied that a short, assured tenancy had been created. We were satisfied with the terms of the section 33 notice and the notice to quit. We were also satisfied that these notices had been served on the Respondents. We also noted that a section 11 notice has been sent to the local authority.
17. Having regard to the question of reasonableness, the Respondents did not object to the order being granted. They had applied for housing with the local council. The council had told them to advise when the date of eviction would be. They appeared hopeful that the council would find accommodation for them. In addition, the landlord wanted the property for her son to live now that he had finished university. We find that it would be reasonable to grant an Order for eviction. In finding it reasonable to grant this order we place weight on the Respondents' confirming that they did not object to the order being granted.
18. Accordingly, we would confirm that we are satisfied that all of the requirements of section 33 had been met and that it would be reasonable to grant an order for eviction under section 33 of the Housing (Scotland) Act 1988.

Decision

19. We grant an order in favour of the Applicant against the Respondents 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

22 July 2024

Date