



**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/19/0065**

**Re: Property at 112 Abbey Road, Aberdeen, AB11 9PE (“the Property”)**

**Parties:**

**Andrew Stallard, Bennathie Cottage, Coupar Angus, Blairgowrie, PH13 9HN  
 (“the Applicants”)**

**Ms Kerry Ellington, 112 Abbey Road, Aberdeen, AB11 9PE (“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,
  - certificate of service by sheriff officers for the notice to quit and the section 33 notice,

- Copy of the title sheet to the property; and
  - Section 11 Notice together with proof of service.
3. The Notice of the Hearing had been served on the Respondent by sheriff officers on 13 February 2019.
  4. The Applicants' agent, Aaron Doran, from Messrs Raeburn Christie Clark & Wallace appeared on behalf of the Applicant. The Respondent did not appear. As I was satisfied that the Respondent had been given formal notice of the today's case management discussion I was prepared to proceed in her absence.

#### Case Management Discussion

5. The Applicants referred me to the papers which had been lodged in support of the application, including the tenancy agreement, AT5, notice to quit, Section 33 notice, section 11 notice and certificates of service.

#### Findings in Fact

6. I found the following facts established:-
7. That there was a tenancy agreement between the Applicant and the Respondent in respect of the property.
8. That it had commenced on 1 June 2016 for an initial period of 6 months until 1 December 2016. Given that the agreement period had been for an initial period of 6 months, it would be renewed 6 monthly thereafter.
9. The tenancy agreement had been signed by the parties on 1 June 2016.
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 25 September 2018, both sought vacant possession as at 1 December 2018. Both provided more than 2 months' notice of vacant possession. A certificate of intimation of these notices by sheriff officers was lodged confirming that the notices had been served on the Respondent on 27 September 2018.

#### 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 Applicant 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.**

Ms Melanie Barbour

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**Legal Member/Chair**

5.3.19  

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**Date**