

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 ('1988 Act')**

Chamber Ref: FTS/HPC/EV/19/0850

Re: Property at 11 Duncan Road, Helensburgh, G84 9DH ("the Property")

Parties:

**Mr Eric Robinson, Mrs P Robinson, St Andrews, 62a Ord Road, Paget,
Bermuda ("the Applicants")**

**Mr Richard Salisbury, Mrs Victoria Claire Cook, 11 Duncan Road, Helensburgh,
G84 9DH ("the Respondents")**

Tribunal Members:

Susan Christie (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that an Order is granted for recovery of possession of
the Property.**

Background

- 1 The Application under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") was made by the Applicants Representative on 14 March 2019.
- 2 A Notice of Acceptance of Application made under Rule 9 of the Rules is dated 21 March 2019.
- 3 The Application seeks recovery of possession of the Property under Section 33 of the Housing (Scotland) Act 1988.
- 4 A Case Management Discussion (CMD) was scheduled for 8 May 2019 at 10am within Glasgow Tribunals Centre, Room 109, 20 York Street, Glasgow, G2 8GT. The Parties were written to by letter dated 13 April 2019.
- 5 Intimation on each Respondent was made by Sheriff Officer, mode of service by letterbox, on 17 April 2019.

- 6 Written responses were due to be submitted by the Respondents by 1 May 2019. None were lodged.

Case Management Discussion

- 7 A Case Management Discussion took place on 8 May 2019 at 10am within Glasgow Tribunals Centre, Room 109, 20 York Street, Glasgow, G2 8GT when the Applicants Representative, Ms Julie Ross, was in attendance.
- 8 The Respondents were not in attendance. I was satisfied that proper intimation had been made on the Respondents and proceeded with the CMD in their absence, the procedure having been fair.
- 9 The paperwork submitted along with the Application was examined and discussed.
- 10 The Short Assured Tenancy (SAT) between the Parties was signed on 2 June 2016. It was for an initial term of 6 Months then recurred monthly thereafter. Two AT5 copies had been produced along with acknowledgements showing that it had been served prior to the SAT.
- 11 Each Respondent had been served with a valid Notice to Quit and Section 33 Notice under the 1988 Act by Sheriff Officer, mode of service by letterbox, on 18 December 2018.
- 12 A copy Section 11 Notice was with the paperwork. Ms Ross evidenced service of this by producing an e mail addressed to Argyll and Bute Council dated 12 March 2019. I was prepared to receive this document at the CMD to evidence service as it did not appear to be an issue (no written Representations having been made by the Respondents) and to satisfy me that the mandatory requirement of notice of raising of the proceedings had been given to the local authority. This is to be crossed over to the Respondents by the Tribunal.
- 13 Ms Ross indicated that after the paperwork had been served on the Respondents contact had been made with her and there had been a suggestion that the Respondents would move out of the Property by 2 March 2019. However, one of the Respondents became ill and after that and the keys had not been handed back. As far as she was aware, they were still in occupation. Accordingly, she was seeking an Order.

Findings in Fact

- I. The Parties entered into a Short Assured Tenancy SAT on 2 June 2016 for an initial term of 6 months.
- II. The Short Assured Tenancy SAT tacitly relocated following the initial term on a monthly basis on the 2nd of every month.
- III. The contractual Short Assured Tenancy ended on 2 March 2019.
- IV. The Short Assured Tenancy became a statutory tenancy thereafter.
- V. A Section 33 Notice in terms of the 1988 Act was served on the Respondents, on 18 December 2018, in writing and complied with the requirements under Section 33 (1) (d). It was given with 2 months' notice.
- VI. The Applicants are entitled to recovery of possession of the Property from the Respondents, the requirements set out in Section 33 of the 1988 Act having been satisfied.

VII. The Application dated 14 March 2019 for recovery of possession of the property is accordingly granted.

Reasons for Decision & Decision

I was satisfied that a decision could be made today on the undisputed facts and as there was sufficient material before it to do so. I was satisfied that the procedure was fair.

I was satisfied that the tenancy between the parties was a SAT under Section 32 of the Act.

I required to grant recovery of the Property in terms of Section 33 of the Act if it was satisfied

- The SAT has reached its finish
- That tacit relocation is not operating
- That no further contractual tenancy is in existence and
- The landlord has given to the tenant notice stating that they require possession of the house, on a period of notice of 2 months.

I was so satisfied and made an Order 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.

Susan Christie

Legal Member/Chair

8 May 2019

Date