



**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/19/1865

**Re: Property at 3 Kininvie Cottage, Craigellachie, Aberlour, AB38 9RD (“the
Property”)**

Parties:

**Xando Limited, 10 Holbein Mews, Lower Sloane Street, London, SW1W 8NN
 (“the Applicant”)**

**Mr Tamas Marczi, Ms Erzsebet Dandar, 3 Kininvie Cottage, Craigellachie,
Aberlour, AB38 9RD (“the Respondents”)**

Tribunal Members:

Helen Forbes (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for possession of the Property should be
granted in favour of the Applicant.**

Background

By application dated 17th June 2019 in terms of Rule 65 of the First-tier Tribunal for
Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the
Rules”), the Applicant applied for an order for possession of the Property in terms of
section 33 of the Housing (Scotland) Act 1988 (“the Act”).

The Applicant lodged a copy of the tenancy agreement between the parties which
commenced on 15th September 2017. The Applicant also lodged copies of the Form
AT5 dated 15th September 2017, Form 33 and Notice to Quit, both dated 12th April
2019, together with evidence of service by Recorded Delivery and receipt of the
notices, and copy Section 11 notice dated 17th June 2019.

Intimation of the Case Management Discussion was made upon the Respondents by Sheriff Officers on 11th July 2019.

The Respondents requested the services of a Hungarian interpreter for the Case Management Discussion, and this was arranged.

The Case Management Discussion

A Case Management Discussion ("CMD") took place on 15th August 2019 at the Elgin Library, Cooper Park, Elgin. The Applicant was not in attendance and was represented by Mr Charlie Beck, Rentals Manager, Cluny Estate Agents. The Respondents were in attendance; however, the Respondent Mr Marczi remained outwith the CMD for childcare reasons. Ms Kitty Fraser provided interpretation for the Respondent, Ms Dandar.

Mr Beck explained the background to the case and moved that the order be granted as the Applicant required vacant possession of the Property. Following discussion between the parties, Ms Dandar indicated that she understood that the tenancy had come to an end and that she was grateful for the assistance given to her by Mr Beck.

Findings in Fact

1. The parties entered into a Short Assured Tenancy on 15th September 2017. The initial period was for 6 months and the tenancy continued monthly thereafter.
2. Notice to Quit and Section 33 Notice dated 12th April 2019 were served by Recorded Delivery upon the Respondents. The notices were received and signed for by the Respondent, Mr Marczi on 13th April 2019. The Notice to Quit gave notice that the Respondents were required to remove no later than 15th June 2019.
3. 15th June 2019 is an ish date of the tenancy. The Notice to Quit is valid and operates to terminate the contractual tenancy.
4. The Applicants have complied with section 33 of the Act.

Reasons for Decision

The Tribunal found that the notices required under the Act had been properly served. The tenancy had been terminated and tacit relocation was not operating. The Tribunal had no option but to grant the order sought.

Decision

The Tribunal grants an order for possession of the Property In favour of the Applicant.

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.

Helen Forbes

Legal Member/Chair

15th August 2019

Date