



**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/19/2680

**Re: Property at The Old Watermill, Balnuith Farm, Tealing, Angus, DD4 0RE
("the Property")**

Parties:

**Mr Brian Thomas Fitzpatrick and Mrs Eileen Ann Fitzpatrick, both residing at 6
Lynnewood Place, Dundee, DD4 7HB ("the Applicants")**

**Mr Stephen Hunt and Mrs Pauline Hunt, both residing at The Old Watermill,
Balnuith Farm, Tealing, Angus, DD4 0RE ("the Respondents")**

Tribunal Members:

Karen Moore (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the Order for Possession be granted.**

Background

1. By application received on 28 August 2019 ("the Application"), the Applicants made an application to the Tribunal for a possession order in terms of Section 33 of the Act and in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"). A copy of the tenancy agreement between the parties, a copy of a Notice to Quit, copy notice in terms of Section 33(d) of the Act and a copy of notice in terms of Section 19A of the Act to the relevant local authority all with proof of service or intimation were lodged as part of the Application.
2. On 11 September 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion ("CMD") was fixed for 25 October 2019 at 10.00 a.m. at Caledonian House, Greenmarket, Dundee, DD1 4QX. The CMD was intimated to both Parties.

Case Management Discussion

3. The CMD took place on 25 October 2019 at 10.00 a.m. at the said Caledonian House. The First-named Applicant was present. The Respondents were both present.
4. I explained to the Parties that the Application is for possession of the Property on the termination of the tenancy at its end date. I explained that the Act states that if the tenancy is brought to an end properly and in accordance with the common law and the Act, the Tribunal must grant an Order, regardless of whether there is a breach of the tenancy agreement.
5. The First-named Applicant confirmed that the Order for Possession was sought.
6. The Respondents accepted that the statutory and common law notices being, Notice to Quit, notice in terms of Section 33(d) of the Act and notice in terms of Section 19A of the Act had been issued by the Applicants and had been received by them. The Second-named Respondent explained to me that the Respondents had applied for local authority housing but had been unsuccessful as no eviction order was in place. She explained that the advice Respondents had been given was to remain in the Property. She explained further that Respondents had been unable to secure a private residential tenancy. I explained the Parties that, regardless of the Respondents' predicament, in the circumstances, I was bound to grant the Order sought. The Respondents fairly accepted that they had no challenge in this respect.

Findings in Fact

7. From the Application and the CMD, I found that a tenancy agreement had existed between the Parties until terminated by the Applicant by virtue of a Notice to Quit served on the Respondents by the Applicants and that tacit relocation is not operating. I found that notice in terms of Section 33(d) of the Act had been served on the Respondent and that notice in terms of Section 19A of the Act had been properly intimated to the relevant local authority. Accordingly, I found that the statutory and common law provisions required to terminate the tenancy between the Parties had been satisfied.

Decision and Reasons for Decision

8. Having found that the tenancy had been terminated and the correct procedure followed, I had regard to Section 33(1) of the Act which states that "the First-tier Tribunal shall make an order" and to Rule 17(4) of the Rules which state that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and, accordingly, I determined to grant an Order for possession.

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.

Karen Moore

Legal Member/Chair

25 October 2019

Date