



**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/19/0200

Re: Property at 1/1, 3 Craigie Street, Glasgow, G42 8NG (“the Property”)

Parties:

**Mr Raymond Caldwell and Mrs Lynda Caldwell, as Partners of and Trustees for
Nithsdale Property Company, c/o Knights Estate Agency, 563 Pollokshaws
Road, Glasgow, G41 2QQ (“the Applicants”)**

**Ms Lynne Sievwright, 1/1, 3 Craigie Street, Glasgow, G42 8NG (“the
Respondent”)**

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision (in absence of the Respondent)

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

Background

An application was received on 21 January 2019 under rule 66 of Schedule 1 to 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 by the applicants against the respondent.

The application included: the tenancy agreement; a copy of the form AT5; a copy of the notice required under section 33 of the 1988 Act (‘the section 33 notice’); and a copy of the Notice to Quit, together with certificate of service by sheriff officer for the Notice to Quit and section 33 notice.

Notice of the case management discussion, together with the application papers and guidance notes, had been served on the respondent by sheriff officers on behalf of the tribunal on 19 February 2019.

The Case Management Discussion

A case management discussion was held on 12 March 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicants were represented by Mr Kevin Duffy, solicitor, Ruthven Keenan Pollock and Co, Glasgow. The respondent was not present. No written representations had been received from the respondent.

The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a case management discussion had been duly complied with. It therefore proceeded with the case management discussion in the absence of the respondent.

Mr Duffy on behalf of the applicants referred the tribunal to the papers which had been lodged in support of the application, including the tenancy agreement, form AT5, Notice to Quit, section 33 notice and certificate of service. He submitted that all of the various notices had been validly served, and told the tribunal that so far as he was aware, the respondent had not removed herself from the property. He therefore asked the tribunal to grant an order for possession under section 33 of the 1988 Act.

Preliminary issue

The tribunal chairperson noted that the landlord was not named on the tenancy agreement or form AT5, which had been prepared by their letting agent, Knights Estate Agency. The applicant was named on the application form as Nithsdale Property Company and on the Notice to Quit as Mr Raymond Caldwell. The land certificate for the property stated that the owners of the property were Lynda Caldwell and Raymond Caldwell as Partners of and Trustees for the firm of Nithsdale Property Company. Mr Duffy confirmed that he was acting in behalf of both Mr and Mrs Caldwell, trading as Nithsdale Property Company.

Findings in Fact

The tribunal made the following findings in fact:

- The applicants are the owners of the property.
- There was a tenancy in place between the applicants and the respondent. The tenancy commenced on 2 August 2016 for an initial period of one year until 1 August 2017. It then continued on a monthly basis thereafter until terminated by either party giving no less than two months' notice to the other party.
- The AT5 form was in the prescribed format and had been signed by the respondent on 2 August 2016. The tenancy agreement had been signed by

the respondent on the same date. The tribunal was therefore satisfied that there had been a short assured tenancy in place between the parties.

- Both the Notice to Quit and section 33 notice contained the prescribed information and both were dated 26 October 2018. These notices stated that the applicant required vacant possession of the property on or before 1 January 2019.
- The tenancy therefore reached its end on 1 January 2019.
- There was evidence that the Notice to Quit and section 33 notice had been served by sheriff officer on 29 October 2018, providing more than two months' notice of vacant possession. The tribunal was therefore satisfied that these notices had been validly served on the respondent.

Reasons for decision

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 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. The tribunal is satisfied that these requirements have been met. The tribunal is therefore required to grant an order for possession under section 33 of the 1988 Act.

Decision

The tribunal grants an order in favour of the applicants 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.

S O'Neill

Legal Member/Chair

12/3/19

Date