

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**

Chamber Ref: FTS/HPC/EV/18/0402

**Re: Property at 15 Bargeddie Street, Blackhill, Glasgow, G33 1PA (“the
Property”)**

Parties:

**Mr Kenneth Smith, Hay Shed Bamflatt Farm, Stonehouse Road, Strathaven,
ML10 6TA (“the Applicant”)**

**Mr Martin Keen, 15 Bargeddie Street, Blackhill, Glasgow, G33 1PA (“the
Respondent”)**

Tribunal Members:

Melanie Barbour (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

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 Applicant against the Respondent for the property.

The application contained the tenancy agreement, a copy of the AT5, a copy of the Section 33 Notice, a copy of the Notice to Quit, certificates of service by sheriff officers for the notice to quit and the section 33 notice, and Section 11 Notice.

There had already been three case management discussions in relation to this case and a conjoined rent arrears case. Notice of today’s hearing had been sent to both parties on 18 September 2018. Both parties were in attendance at today’s hearing.

Case Management Discussion

The papers which had been lodged in support of the application, included the tenancy agreement, AT5, notice to quit, Section 33 notice and certificate of service.

The Respondent confirmed he had seen the papers. The Respondent did not dispute any aspect of the paperwork or that the tenancy was a short assured tenancy.

Findings in Fact

I found the following facts established.

That there was a tenancy agreement between the Applicant and the Respondent in respect of the property. It had been entered into on 10th May 2012 for a period of 12 months until 9th May 2013, and it continued thereafter on a month to month basis.

The tenancy provided that in the event that the landlord wished to terminate the lease he had to provide two months' written notice in accordance with Section 33 of the 1988 Act; and serve a notice to quit.

The tenancy agreement had been signed by the parties on 2 May 2012. The AT5 Form was in the prescribed format and it had been received by the Respondent on and signed by him on 9 August 2007.

I was satisfied that a short assured tenancy had been created.

The notice to quit and section 33 notices both contained the prescribed information and both were dated 1 December 2017, both sought vacant possession as at 9 February 2018. Both provided more than 2 months' notice of vacant possession. A certificate of intimation of these notices by sheriff officers was provided which confirmed that the notices had been served on the Respondent on 8 December 2017.

I was satisfied with the terms of these notices and that they had been served on the Respondent.

Reasons for Decision

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. I am satisfied that these requirements have been met and I consider therefore that I require to grant an order for eviction under section 33 of the 1988 Act

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.

Melanie Barbour

Legal Member/Chair

Date

8/10/18

*Insert or Delete as required