

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/19/0418

Re: Property at 123 Fleurs Avenue, Dumbreck, Glasgow, G41 5AR (“the Property”)

Parties:

Mrs Wong Tai Lau, 18 Dalkeith Avenue, Dumbreck, Glasgow, G41 5BJ (“the Applicant”)

Mrs Lesley McMahon, 123 Fleurs Avenue, Dumbreck, Glasgow, G41 5AR (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. 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 Applicants against the Respondent for the property.
2. The application contained :-
 - A copy of the tenancy agreement,
 - a copy of AT5 Notice
 - a copy of the Section 33
 - a copy of Notice to Quit,

- certificate of postal service for the notice to quit and the section 33 notice;
 - Section 11 Notice and copy email to the local authority; and
 - Letter of authority from Mr Lau
3. The Notice of the Hearing had been served on the Respondent by sheriff officers on 11 March 2019.
 4. The Applicants' agent, Kirsty Morison, from Messrs TC Young appeared on behalf of the Applicant. The Respondent did not appear. As I was satisfied that the Respondent had been given formal notice of today's case management discussion I was prepared to proceed in her absence.

Case Management Discussion

5. The Applicant's agent referred me to the papers which had been lodged in support of the application, including the tenancy agreement, AT5 notice, notice to quit, section 33 notice, section 11 notice and certificates of service.

Findings in Fact

6. I found the following facts established:-
7. That there was a tenancy agreement between the Applicant and the Respondent in respect of the property.
8. That it had commenced on 30 November 2017 for an initial period of 6 months until 30 May 2018 and it was provided in the lease that it would continue on a monthly basis thereafter.
9. The tenancy agreement had been signed by the parties on 28 November 2017.
10. The AT5 Form was in the prescribed format and was dated 28 November 2017.
11. The Notice to Quit and Section 33 Notices contained the prescribed information and both were dated 28 November 2018, both sought vacant possession as at 30 January 2019. Both provided more than 2 months' notice of vacant possession. A postal receipt of these notices was lodged and it appeared therefore that the notices had been served on the Respondent on 29 November 2018.

Reasons for Decision

12. 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.

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

14. I was satisfied with the terms of the notice to quit and the section 33 notice and it appeared that these notices had been served on the Respondent.

15. I was satisfied that the requirements of section 33 had been met and I consider therefore that I am required to grant an order for eviction under section 33 of the Housing (Scotland) Act 1988.

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.

M Barbour

Legal Member/~~Chair~~

1. 4. 19

Date