



**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/18/1788

Re: Property at Flat 3, 1 James Short Park, Falkirk, FK1 1EB (“the Property”)

Parties:

Erradale Properties Ltd, 1 Tullibody Road, Alloa, FK10 2LL (“the Applicant”)

**Mr Alexander Buchanan, Mrs Svetlana Buchanan, Flat 3, 1 James Short Park,
Falkirk, FK1 1EB (“the Respondents”)**

Tribunal Members:

Maurice O’Carroll (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for repossession should be granted

Background

1. The parties entered into a Short Assured Tenancy lease over the Property on 10 June 2011
2. Notice requiring possession of the Property was served on the Respondents by Sheriff Officer on 2 May 2018.
3. The Notice required vacant possession on the “ish” date of 6 July 2018. The requisite period of at least two months in terms of section 33 of the 1988 Act was therefore given.
4. The Respondents did not vacate the Property on 6 July 2018. The Applicant therefore lodged an application for an Order for eviction and possession on 11 July 2018.

5. A Case Management Discussion ("CMD") was set down for 2pm at the STEP Centre, Stirling Business Park, Stirling on 19 October 2018.

The Case Management Discussion

6. At the CMD, Amanda Campbell and Gillian Inglis of Belvoir Letting Agency appeared as representatives of the Applicant. Mr Alexander Buchanan appeared on his own behalf and as representative of the second Respondent.
7. Ms Inglis confirmed that the Notice to Quit had been served on the Respondents on 2 May 2018, seeking entry on the ish date of 6 July 2018. In May 2017, an attempt to serve a Notice to Quit had failed because the requisite period of notice of two months had not been given. On this occasion, in May 2018, more than two months' notice had been provided.
8. Mr Buchanan referred to the advice from Shelter Scotland dated 4 July 2017. He maintained that the advice he had received via Falkirk Council indicated that the Notice to Quit had once again been invalid for reasons similar to those detailed in that letter. He did not, however, tender any written evidence of that advice in relation to the present application to support his submission.

Findings in fact

- The parties entered into a Short Assured Tenancy on 10 June 2011
- The initial term of the lease had been for six months
- The terms of the lease meant that tacit relocation operated to extend the lease by six months and two days thereafter
- An ish date arose on 6 July 2018
- Notice to Quit was validly served more than two months in advance of the ish date in accordance with section 33 of the 1988 Act

Reasons for the decision

9. The requirements of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 have been complied with by the Applicant.
10. The Respondents were validly served with a Notice of Eviction/Possession. The requisite period of time was provided to the Respondents before the bringing of the present application.
11. The requirements of section 33 of the 1988 Act in relation to recovery of possession on termination of a Short Assured Tenancy have been met.

Decision

12. The Tribunal grants the Order for Eviction and Possession sought by 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.

M O'Carroll

Legal Member/Chair

19 October 2018
Date