

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/19/1855

Re: Property at Fettes Farmhouse, Killearnan, Muir of Ord, IV6 7SG (“the Property”)

Parties:

Burton Property Trust, Galbraith, 17 Old Edinburgh Road, Inverness, IV2 3HF (“the Applicant”)

Mr Charles Mackie, Mr Colin Mackie, Mrs Victoria Mackie, Fettes Farmhouse, Killearnan, Muir of Ord, IV6 7SG (“the Respondents”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision in absence of the Respondents

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the Property is granted in favour of the Applicant.

Background

By application received by the Housing and Property Chamber in the period between 17th June and 3rd July 2019, the Applicant applied for an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988 (“the Act”). The Applicant lodged a copy of the Short Assured Tenancy agreement between the parties which commenced on 15th April 2016 at a rent of £895 per month, together with Forms AT5. The Applicant also lodged copy Section 33 notices and copy Notices to Quit dated 3rd April 2019, requiring the Respondents to leave by 15th June 2019, together with copy proof of delivery and copy section 11 Notices in terms of the Homelessness (Scotland) Act 2003.

The Tribunal had notification of intimation of the Case Management Discussion upon the Respondent by Sheriff Officers on 25th July 2019. By email dated 28th August 2019, the Respondents notified the Tribunal that they would not be attending the Case Management Discussion as they did not intend to contest the eviction and would be out of the Property by 14th September 2019.

The Case Management Discussion

A Case Management Discussion took place on 30th August 2019 at Jury's Inn, Millburn Road, Inverness. The Respondents were not in attendance. The Applicant was represented by Miss Clare Acheson, Managing Agent, and Miss Alexandra Davis, Assistant Manager, Burton Property Trust.

The Tribunal was satisfied that the requirements of Rule 24(1) had been complied with and notice of the Case Management Discussion given, and that it was appropriate to continue in the absence of the Respondents in terms of Rule 29.

Ms Acheson moved that the order for possession be granted as the required documentation had been correctly served and the Short Assured Tenancy had come to an end.

Findings in Fact

1. The parties entered into a Short Assured Tenancy agreement, commencing on 15th April 2016 for a period of six months, then monthly thereafter.
2. Notices to Quit and Section 33 Notices dated 3rd April 2019 were successfully served on the Respondents by Recorded Delivery.
3. The Notices to Quit required the Respondents to remove no later than 15th June 2019. 15th June is an ish date of the tenancy.
4. The Applicant has complied with section 33 of the Act.

Reasons for Decision

The Tribunal found that the notices required under the Act had been properly served. The tenancy had been terminated and tacit relocation was not operating. The Tribunal had no option but to grant the order sought.

Decision

The Tribunal grants an order for possession of the Property in favour of 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.

Helen Forbes

Legal Member/Chair

30th August 2019

Date