



**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/18/2057**

**Re: Property at 234/3 Cowgate, Edinburgh, EH1 1NQ (“the Property”)**

**Parties:**

**Mr George Gardner, 459 Gilmerton Road, Edinburgh, EH17 7JG (“the Applicant”)**

**Mr James Glasgow, Mr Garry Scobbie, 234/3 Cowgate, Edinburgh, EH1 1NQ (“the Respondent”)**

**Tribunal Members:**

**Lesley Johnston (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted.**

**Background**

In this application the Landlord, George Gardner (‘the Applicant’) seeks an Order for possession of the property at 243/3 Cowgate, Edinburgh, EH1 1NQ (‘the property’) in terms of section 33(1)(d) of the Housing (Scotland) Act 1988 (‘the Act’).

The application is made in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 (‘the Rules’).

The application complies with the formal requirements of Rule 66.

The Respondents are James Glasgow and Garry Scobbie. They are the tenants at the property.

## **The Case Management Discussion**

The case called for a Case Management Discussion on 11 October 2018 at 2pm in George House, 126 George Street, Edinburgh.

The Applicant was represented by Mr Matheson, Solicitor, TC Young Solicitors. The Respondents were neither present nor represented.

I am satisfied that the Respondents were given notice of the hearing, the citations having been served on them on 13 September 2018 by Sheriff Officers.

## **Submissions**

Mr Matheson moved the Tribunal to grant the application on the basis that the requirements of section 33 of the Act had been complied with. The Respondents had not removed from the property. The action was accordingly necessary.

## **Findings in Fact:**

The Tribunal made the following findings in fact:

1. The Landlord is the heritable proprietor of the property;
2. By lease dated 2 June 2011 the Applicant and Respondents entered into a tenancy agreement in respect of the property;
3. The duration of the lease is "6 months commencing on 2 June 2011 and expiring on 6 December 2011... if the agreement is not brought to an end by either party on the end date it will continue thereafter on a monthly basis until ended by either party.;
4. The term of the lease was for a period of not less than six months;
5. An AT5 Notice was served on the Respondents at the commencement of the tenancy, the parties having signed the AT5 on 2 June 2011;
6. The Landlord served a Notice to Quit and Section 33 Notice on the Tenant on 6 March 2018 by Sheriff Officers;
7. A section 11 Notice was issued by the Landlord's agents to the City of Edinburgh Council on 31 July 2018;
8. The application was made to this Tribunal on 9 August 2018
9. The Tenants have not removed from the property

## **Decision**

The Tribunal is satisfied that the lease between the parties is a Short Assured Tenancy in terms of section 32 of the Act. That being the case, the Applicant may seek an Order from the Tribunal under section 33 of the Act.

In terms of section 33 of the Act, the Tribunal shall make an order for possession of the property if the Tribunal is satisfied that:

- (a) The short assured tenancy has reached its ish;
- (b) Tacit relocation is not operating

(c) The Landlord has given to the tenant notice stating that he requires possession of the house.

The Tribunal is satisfied that the Application meets the terms of section 33. The lease reached its end on 6 July 2018. Tacit relocation is not operating. The Notice to Quit and Notice in terms of section 33 of the Act were served on the Respondent giving two months' notice and were in the correct form.

In these circumstances, the Tribunal has no discretion and therefore grants the Order for Possession.

### **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.**

L Johnston

**Legal Member/Chair**

**Date**

11 / 10 / 2018