



**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/18/0561

**Re: Property at Woodside Cottage, Solway Bank, Canonbie, DG14 0XS (“the
Property”)**

Parties:

**Mr Torquil Charles Johnson-Ferguson, Slowaybank, Chapelknowe, Canonbie,
DG14 0XS (“the Applicant”)**

**Mrs Jemma Kay Elson, Woodside Cottage, Solwaybank, Canobie, DG14 0XS
 (“the Respondent”)**

Tribunal Members:

Andrew Upton (Legal Member)

Decision (in absence of the Respondent)

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

- 1. The Short Assured Tenancy had reached its ish;**
- 2. Tacit relocation was not in operation;**
- 3. A notice in terms of section 33 of the Housing (Scotland) Act 1988 had
been properly and timeously served on the Respondent by the
Applicant; and**
- 4. There was no other contractual tenancy for the time being in operation,**

Therefore, the Tribunal granted an eviction order.

STATEMENT OF REASONS

- 1. This is an application under Rule 66 for an eviction order following upon
termination of a Short Assured Tenancy under and in terms of section
33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).**

2. The case called before me for a Case Management Discussion on 22 May 2018. The Applicant was represented by Miss Duke, Solicitor, of McJerron and Stevenson solicitors. There was no appearance by or on behalf of the Respondent.
3. The tenancy agreement in this case was produced. It commenced on 11 December 2015. The initial period of let expired on 10 December 2016. The let continued thereafter on a month-to-month rolling basis. The tenancy agreement provided that it could be brought to an end by the tenant giving one month's notice, or by the landlord giving two months' notice, expiring on the day in both cases.
4. The Applicant produced the tenancy agreement together with a copy of the Form AT5 that had been given to (and signed by) the tenant in advance of the tenancy commencing. I was therefore satisfied, in absence of any objection by the Respondent, that the tenancy was a Short Assured Tenancy in terms of section 32 of the 1988 Act.
5. The Applicant produced a copy Notice to Quit and copy Notice under section 33 of the 1988 Act with the Application. Both were dated 8 November 2017. Both were addressed to the Respondent and related to the let property. Both gave notice to the Respondent that the tenancy would end on 10 January 2018, and that the Applicant would require possession of the property. At the CMD, Miss Duke produced the principal Sheriff Officer's Certificate of Service of the Notice to Quit and section 33 Notice. Both were served on 9 November 2017. Accordingly, the Respondent had been given two months' notice in each notice.
6. Section 33 of the 1988 Act provides as follows:-

“(1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal shall make an order for possession of the house if the Tribunal is satisfied—

- (a) that the short assured tenancy has reached its end;***
- (b) that tacit relocation is not operating; and***

...

- (d) that the landlord or, where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house.***

(2) The period of notice to be given under subsection (1)(d) above shall be—

- (i) if the terms of the tenancy provide, in relation to such notice, for a period of more than two months, that period;***
- (ii) in any other case, two months.”***

7. On the Applicant's submission, in the absence of any opposition by the Respondent, I was satisfied that:-
- (i) the short assured tenancy had reached its end on 10 January 2018;
 - (ii) that tacit relocation is not operating, Notice to Quit having been served on the Respondent on 9 November 2017; and
 - (iii) that the Applicant had given the Respondent notice stating that he required possession of the house on 10 January 2018, on a period of notice not less than two months.
8. Accordingly, I am required by section 33 of the 1988 Act to make an order for possession of the property in question. I therefore granted the order.

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.

ANDREW UPTON

Legal Member/Chair

22 MAY 2018

Date