



**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/18/1454

**Re: Property at Flat 3 Panton House, Old Market Place, Banff, AB45 1GE (“the
Property”)**

Parties:

**GH Property, GH Property, Dubford, Gamrie, Banff, AB45 3ET; Dubford,
Gamrie, Banff, Aberdeenshire, AB45 3ET (“the Applicant”)**

**Mr Christopher Anderson, Flat 3 Panton House, Old Market Place, Banff, AB45
1GE (“the Respondent”)**

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. By application dated 12 June 2018 the Applicant applied to the Tribunal for an order for possession of the property in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The Application was accompanied by copies of the Tenancy Agreement, Form AT5, Notice to Quit, Section 33 Notice and Section 11 Notice.
3. By Notice of Acceptance dated 21 June 2018 a legal member of the Tribunal with delegated powers accepted the application and the case was continued to a Case Management Discussion to take place at Banff Sheriff Court on 23 August 2018 at 2.000pm.

4. Intimation of the Case Management Discussion was given to the Respondent by Sheriff Officers on 30 July 2018. The Respondent could lodge written representations with the Tribunal up to 13 August 2018. No such representations were received by the Tribunal.

Case Management Discussion

5. The Case Management Discussion was held at Banff Sheriff Court on 23 August 2018.
6. The Applicant was represented by Mr Paul Conroy and Mrs Ann Conroy. There was no appearance by the Respondent.
7. Mrs Conroy for the Applicant confirmed that the Form AT5 had been served on the Respondent at the local authority housing office in Banff on 9 November 2017 in the presence of the Housing officer Mr Robert Kennedy. He had witnessed the Respondent's signature on the lease. The time of signing the AT5 had been noted as 3.00pm and the time of signing the lease as 3.10pm. Therefore, Mrs Conroy submitted the AT5 had been served in advance of the lease and a valid Short Assured Tenancy had been created.
8. Mrs Conroy said that the Notice to Quit and Section 33 Notice had been sent by recorded delivery post on 23 March 2018 giving the Respondent the requisite two months' notice in terms of the tenancy agreement. Proof of delivery was with the papers provided.
9. According to Mrs Conroy although she had not spoken to the Respondent she was aware that the Respondent had been in touch with the local authority housing department and he had been offered temporary accommodation and arrangements were in place to store his furniture until permanent accommodation was available.
10. The Applicant wished an order for possession that could be enforced if the Respondent did not return the keys to the property.

Findings in Fact

11. The Parties entered into a Short Assured Tenancy for a period of six months commencing on 10 November 2017 and ending on 11 May 2018 and from month to month thereafter.
12. After the initial six month period either party could terminate the agreement by giving two months written notice.
13. The Applicant gave the Respondent Notice that the tenancy would end on 11 June 2018 by serving a Notice to Quit and Section 33 Notice by recorded delivery on 23 March 2018. The Notices were delivered on 24 March 2018.

14. The Short Assured Tenancy between the parties ended on 11 June 2018.
15. The Respondent has remained in occupation of the property since that date.
16. The Applicant is entitled to an order for possession of the property and eviction of the Respondent.

Reasons for Decision

17. The Applicant provided sufficient documentation to show that the parties had entered into a Short Assured Tenancy that had commenced on 10 November 2017 for a period of six months and on a month to month basis thereafter.
18. The Applicant provided copy documents to show that the appropriate Notice to Quit and Section 33 Notice had been served on the Respondent and also that a Section 11 Notice had been sent to the local authority.
19. It appeared to the Tribunal that the Respondent had been given the opportunity to make representations to the Tribunal either in writing or by attending the Case Management Discussion and had chosen not to do so. It also appeared that he may be in the process of being accommodated by the local authority. It therefore seemed reasonable to the Tribunal to grant the order sought without further enquiry.

Decision

20. The Applicant is entitled to an order against the Respondent for 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.

Graham Harding

Legal Member/Chair 

23 August 2018
Date