

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/18/2848

**Re: Property at Ground Floor Left, 238 Victoria Road, Torry, Aberdeen, AB11
9NS (“the Property”)**

Parties:

**Mr Gavin Grant England, Mr George Biddi England, 3 The Grange, Glithno,
Stonehaven, AB39 3AD; 18 Cattofield Gardens, Aberdeen, AB25 3QZ (“the
Applicants”)**

**Mr Barry Frazer Topham, Ground Floor Left, 238 Victoria Road, Torry,
Aberdeen, AB11 9NS (“the Respondent”)**

Tribunal Members:

John McHugh (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for possession of the Property should be
made in favour of the Applicants.**

Background

The Applicants are the landlord and the Respondent the tenant of the Property under
a short assured tenancy dated 17 and 18 September 2015.

The Applicants have brought this Application seeking possession of the Property in
terms of section 33 of the Housing (Scotland) Act 1988.

The Case Management Discussion

The Applicants were represented by their solicitor, Jennifer Davidson. The
Respondent attended personally.

The Applicants insisted upon their Application.

The Respondent noted that there had been outstanding repairs since he had moved into the Property.

The Respondent had been prepared to move out but advised that an adverse reference had been given to a potential new landlord by the Applicants' letting agent. The Applicants' representative explained that the reference had been accurate in that it had recorded that there had been a late rent payment. The Respondent considered that the payment in question had been on time but that the Applicants' representatives had been in error in treating it as late.

The Tribunal explained to the parties that whatever the position regarding repairs and references, the Tribunal had no discretion but to grant an Order for possession of the Property in the circumstances of this case.

Findings in Fact

The Applicants are the landlord and the Respondent the tenant of the Property under a short assured tenancy dated 17 and 18 September 2015.

The initial term of the Lease expired on 17 September 2016 and continued thereafter on a month to month basis.

On 6 June 2018 the Applicants served Notice to Quit terminating the tenancy with effect from 17 August 2018.

On 7 June 2018 the Applicants served a section 33 Notice upon the Respondent requiring possession of the Property by 17 August 2018.

The Respondent remains in occupation of the Property.

Reasons for Decision

The Tribunal is satisfied that the short assured tenancy has reached its end; that tacit relocation is not operating; that no further contractual tenancy is in existence and that the Applicants have given appropriate notice requiring possession of the Property.

Decision

The Tribunal decides that an Order for Possession of the Property should be made in favour of the Applicants.

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.

J McHugh

John McHugh, Legal Member/Chair

12 February 2019

Date