



**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/19/2261

Re: Property at 42 Gigha Terrace, Irvine, Ayrshire, KA11 1DJ (“the Property”)

Parties:

**Maconochies of Kilmarnock Limited, 22/26 Capbell Street, Kilmarnock,
Ayrshire, KA1 4HL (“the Applicant”)**

**Ms Natalie Prior, 42 Gigha Terrace, Irvine, Ayrshire, KA11 1DJ (“the
Respondent”)**

Tribunal Members:

Melanie Barbour (Legal Member)

Decision

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

Background

1. An application was received under rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession of the property under a short assured tenancy granted by the Applicants to the Respondent.
2. The application contained :-
 - A copy of the tenancy agreement,
 - a copy of the AT5,
 - a copy of the Section 33 Notice,
 - a copy of the Notice to Quit,
 - evidence of recorded delivery service, and
 - Section 11 Notice.

3. The Notice of the Hearing had been served on the Respondent by sheriff officers on 8 August 2019.
4. The Applicant's agent David Stewart from Messrs Carruthers Curdie Sturrock & Co appeared on behalf of his client. The Respondent was also in attendance.

Case Management Discussion

5. The Respondent confirmed that she had received the application paperwork. She advised that she had signed for a new tenancy with the local authority, she was getting the keys for her new property this coming Friday, and she asked therefore to be allowed to remain in her property until Friday. She advised she was not opposing the application being sought.
6. The Applicant's agent confirmed that he was seeking that an order for repossession of the property. He advised that his clients would not be in a position to enforce the order by this Friday and the Respondent would therefore be able to remain in the property until then.
7. Having regard to the papers lodged in support of the application, including the tenancy agreement, AT5, notice to quit, Section 33 notice, section 11 notices and post office certificate, the Respondent confirmed that she was not objecting to any aspect of that paperwork.

Findings in Fact

8. I found the following facts established:-
9. That there was a tenancy agreement between the Applicants and the Respondent in respect of the property.
10. That it had commenced on 15 May 2014 for an initial period of 6 months. After the initial period of 6 months the tenancy agreement would continue on a monthly basis thereafter.
11. The tenancy agreement had been signed by the parties on 15 May 2014.
12. The AT5 Form was in the prescribed format and there was evidence that it had been given to the Respondent prior to the creation of the tenancy agreement.
13. The notice to quit and section 33 notices contained the prescribed information and both were dated 25 April 2019, both sought vacant possession as at 14 July 2019. Both provided more than 2 months' notice that vacant possession was sought.

Reasons for Decision

14. Section 33 of the 1988 Act requires me to grant an order for possession under a short assured tenancy, where the tenancy has reached its end; tacit relocation is not operating; no further contractual tenancy for the time being is in existence; and the landlord has given notice to the tenant that they require possession of the house.
15. I was satisfied that a short assured tenancy had been created.
16. I was satisfied with the terms of the section 33 notice and the notice to quit. I was also satisfied that these notices had been served on the Respondent.
17. I was satisfied that all of the requirements of section 33 had been met and I consider therefore that I am required to grant an order for eviction under section 33 of the Housing (Scotland) Act 1988.

Decision

I grant an order in favour of the Applicants against the Respondent for recovery of 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.

M Barbour

Legal Member/Chair

16. 1. 19

Date