



**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/21/0375**

**Re: Property at 15 Rosebank Mews, Dundee, DD3 6PS (“the Property”)**

**Parties:**

**John Street Scotland Ltd., 31a North Bridge Street, Bathgate, West Lothian, EH48 4PJ (“the Applicant”)**

**Ms Samantha Donaldson, 15 Rosebank Mews, Dundee, DD3 6PS (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member) and Frances Wood (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it would make an order for possession of the short assured tenancy.**

**Background**

1. An application was received under rule 65 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a short assured tenancy by the Applicants against the Respondent for the property.
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 letter confirming that section 33 notice period had been extended to 6 months;

- a copy of the Notice to Quit,
  - evidence of service by recorded delivery of the notice to quit and section 33 notice; and
  - Section 11 Notice with evidence of service.
3. The Notice of the Hearing had been served on the Respondent by sheriff officers on 15 March 2021.
  4. Today's case management discussion was held by telephone conference call. The Applicant's agent, Mr Lawson attended. The Respondent did not attend. The tribunal noted that the Respondent had received notice of today's case management discussion by sheriff officers; and given this we were prepared to proceed with the discussion in her absence.

### Case Management Discussion

5. The Applicant's agent advised that he sought an order for repossession in terms of section 33 of the Housing (Scotland) Act 1988.
6. We noted the papers lodged in support of the application, including the tenancy agreement, AT5, notice to quit, Section 33 notice, section 11 notice and certificates of service. There was also enclosed a further letter to the Respondent explaining that the notice period required in section 33 had been extended due to the Coronavirus (Scotland) Act 2020.
7. The Applicant addressed the tribunal on the reasonableness of granting the order. He advised that the Applicant had complied with the terms of section 33 and had served all the appropriate notices on the Respondent. She had also been sent a subsequent letter about the extension of the section 33 notice period and a further letter at the end of the notice period. There had been no contact whatsoever from the Respondent in response to any of these notices or letters. The Applicant had had no contact from the Respondent to indicate that it would not be reasonable to grant the order or to raise any issues about these proceedings. He also noted that the papers had been served on the Respondent for today's tribunal discussion and she had not appeared to raise any issue. He advised that he was unsure why the landlord was seeking recovery of the property. He advised that the property had been granted to the Respondent only. He was not aware if the Respondent had any dependants residing at the property with her.

### Findings in Fact

8. The tribunal found the following facts established:-
9. That there was a tenancy agreement between the Applicant and the Respondent in respect of the property.

10. That it had commenced on 16 June 2017 until 15 December 2017. The agreement was for an initial period of 6 months and it continued on a monthly basis thereafter.
11. The tenancy agreement had been signed by the parties on 16 June 2017.
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 notice contained the prescribed information, was dated 24 July 2020, it sought vacant possession as at 15 November 2020.
14. The section 33 notice contained the prescribed information, was dated 24 July 2020, it sought vacant possession as at 15 November 2020.
15. The applicant had written to the respondent in a letter dated 8 December 2020 advising that the notice period in the section 33 notice was now 6 months and the new date when they expected the tenant to vacate the property was now 15 February 2021.
16. There appeared to be evidence of service for both notices on the Respondent.
17. A section 11 notice appeared to have been served on the local authority.

### Reasons for Decision

18. Section 33 of the 1988 Act (as amended by the Coronavirus (Scotland) Act 2020) provides that the tribunal may grant an order for possession under a short assured tenancy, where the tenancy has reached its end; tacit relocation is not operating; the landlord has given notice to the tenant that they require possession of the house; and that it is reasonable to do so.
19. The tribunal was satisfied that a short-assured tenancy had been created.
20. We were also satisfied with the terms of the section 33 notice and the notice to quit; and that these notices had been served on the Respondent.
21. Having regard to the issue of whether it was reasonable to make an order for possession, there was limited information before the tribunal on this matter. We did however have regard to the fact that notices had been served on the respondent and at least two follow up letters sent to the Respondent, putting the Respondent on notice that the Applicant wanted to recover possession of the property. We were advised that she had made no contact at all with the Applicant's agent about these proceedings. The Respondent had also not attended today's discussion to advise the tribunal if there were any matters which we should consider before granting any order for possession nor had she made any written representations. On balance therefore the tribunal considered that it would be reasonable to grant the order for possession.

22. We were therefore satisfied that the requirements of section 33 had been met and we considered therefore that we should grant an order for eviction under section 33 of the Housing (Scotland) Act 1988.

### Decision

23. We grant an order in favour of the Applicant 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.**

**Melanie Barbour**

14/04/2021

Legal Member/Chair

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Date