



**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 (hereinafter referred to as “the 1988 Act”) for Recovery of Possession
of a Short Assured Tenancy.**

Chamber Ref: FTS/HPC/EV/20/1005

Re: Property at 58 Stirling Street, Dundee, DD3 6NY (“the Property”)

Parties:

**Mr Harry Murray, Mrs Delene Murray, 52 Inchkeith Avenue, Broughty Ferry,
Dundee, DD5 2LS (“the Applicant”)**

Ms Margaret Wallace, 58 Stirling Street, Dundee, DD3 6NY (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for Recovery of Possession on termination of a Short Assured Tenancy under Section 33 of the Housing (Scotland) Act 1988. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained. The hearing took place by teleconference due to the Covid-19 pandemic.

Attendance and Representation

The Applicant was represented by David Wilkie, The Property Management Company, 19 Castle Street, Tayport, Fife, DD6 9AE.

The Respondent did not attend the Tribunal. She had been served by Sheriff Officer on 3rd July 2020.

Preliminary Matters

There were no preliminary matters arising other than the non attendance of the Respondent. The Applicant's representative said that the Respondent sought new local authority housing due to a change in circumstances and was not opposed to the application as she sought an order to assist in her rehousing.

Decision (in absence)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

Case Management Discussion

Mr Wilkie for the Applicants in his submission stated that the Applicant's sought an Order for recovery of possession and that they were heritable proprietors of the property. Further that parties had entered into a Short Assured tenancy on 28th March 2014. The tenancy was a valid Short Assured Tenancy and that the Respondent had received a Notice to Quit by recorded delivery post bringing the said tenancy to an end on the ish date, namely the 28th March 2020. The Respondent had been seeking to find alternative accommodation he said from the local authority and did not want to continue residing in same. Mr Wilkie further explained an order would assist the Respondent in this process and that the applicants would seek to negotiate with the Respondent regarding further steps but sought an Order.

Reasons for Decision

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings and had not challenged same by written representations or attendance.**
- 2. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.**
- 3. The Tribunal was satisfied that the tenancy was in terms of Section 32(1) of the 1988 Act, a Short Assured Tenancy for not less than 6 months and in relation to which a prescribed notice namely a valid AT5 had been served before creation of the short assured tenancy.**
- 4. In terms of Section 33 of the 1988 Act the Tribunal considered that the Short Assured Tenancy had reached its ish.**
- 5. Further the Tribunal was satisfied that no tacit relocation was operating, no further contractual tenancy was in existence and a valid Notice to Quit had been served on the Respondent terminating the tenancy with the necessary notice given to the Respondent.**

6. Proof of a correct method of service of the Notice to Quit had been lodged.
7. Accordingly in terms of Section 33 of the 1988 Act the Tribunal granted 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.

K. K

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5 August 2020

Legal Member/Chair

Date