



**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/21/2083

Re: Property at 29C (1/2) Baldovan Terrace, Dundee, DD4 6NQ (“the Property”)

Parties:

**Mr William David Herring, Mrs Frances Herring, 12 The Square, Letham, Forfar,
DD8 2TE (“the Applicants”)**

**Ms Valerie Bruce, 29C (1/2) Baldovan Terrace, Dundee, DD4 6NQ (“the
Respondent”)**

Tribunal Members:

Neil Kinnear (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

This was an application dated 30th August 2021 and brought in terms of Rule 66 (Application for order for possession upon termination of a short assured tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicants provided with their application copies of the short assured tenancy agreement, form AT5, notice to quit, section 33 notice, Section 11 notice, relevant proofs of service, affidavits from the Applicants, and a letter from the Applicants’ solicitors confirming the Applicants’ instructions to sell the Property.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 22nd September 2021, and the Tribunal was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held at 14.00 on 26th October 2021 by Tele-Conference. The Applicants did not participate, but were represented by Miss Muir, solicitor. The Respondent did not participate, nor was she represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Miss Muir with reference to the application and papers to grant the order sought. Miss Muir explained with reference to the Applicants' affidavits that they were both about to retire, and had instructed their solicitors to sell the Property. The Applicants were friendly with the Respondent, and advised Miss Muir that the Respondent was in the process of arranging to obtain housing from the local authority and was not opposed to the granting of the order sought.

Statement of Reasons

In terms of Section 33 of the *Housing (Scotland) Act 1988* as amended, the Tribunal may make an order for possession of the house let on the tenancy if:

- (1) the short assured tenancy has reached its end;
- (2) tacit relocation is not operating;
- (3) the landlord has given to the tenant notice stating that he requires possession of the house; and
- (4) it is reasonable to make an order for possession.

All of the above criteria had been satisfied in this application, and accordingly the Tribunal made an order for possession. The Respondent had not responded to the Tribunal, nor participated in this application. The Tribunal was satisfied in the circumstances that it was reasonable to grant the order sought.

Decision

In these circumstances, the Tribunal made an order for possession of the house let on the tenancy as sought in this application.

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.

Neil Kinnear

26/10/2021

Legal Member/Chair

Date