



**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/20/1829

**Re: Property at 22 Strathlogie, Westfield, West Lothian, EH48 3DB (“the
Property”)**

Parties:

**Mrs Carol Anne McGregor, 2 Blackfaulds Farm, Avonbridge, Falkirk, FK1 2JZ
 (“the Applicant”)**

**Miss Kerry-Anne Nisbet, 22 Strathlogie, Westfield, West Lothian, EH48 3DB
 (“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 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 the Notice to Quit,

- evidence of service by recorded delivery, and
 - Section 11 Notice and evidence of service.
3. The Notice of the Hearing had been served on the Respondent by sheriff officers on 24 September 2020.
 4. Today's case management discussion was held by telephone conference call. Both the Applicant and Respondent attended.

Case Management Discussion

5. The Applicant advised that she sought an order for repossession in terms of section 33 of the Housing (Scotland) Act 1988. The Respondent advised that she was not opposing the application.
6. I noted the papers lodged in support of the application, including the tenancy agreement, AT5, notice to quit, Section 33 notice, section 11 notices and certificate of service.

Findings in Fact

7. I found the following facts established:-
8. That there was a tenancy agreement between the Applicant and the Respondent in respect of the property.
9. That it had commenced on 16 July 2012 for an initial period of 6 months. The agreement was for an initial period of 6 months and it continued on a monthly basis thereafter.
10. The tenancy agreement had been signed by the parties on 16 July 2012.
11. 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.
12. The notice to quit and section 33 notices contained the prescribed information, and both were dated 17 February 2020, both sought vacant possession as at 16 May 2020. Both provided more than 2 months' notice that vacant possession was sought.

Reasons for Decision

13. 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.

14. I was satisfied that a short-assured tenancy had been created.

15. 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.

16. 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 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

22 October 2020

Legal Member/Chair

Date