



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 33 of the Housing (Scotland)
Act**

Chamber Ref: FTS/HPC/EV/18/1840

**Re: Property at No 2 Easter Kilwhiss Farm Cottages, Ladybank, Fife, KY15 7UR
("the Property")**

Parties:

**Mr Andrew Graham, Raecruick Farm Cottage, Dunshalt, Fife, KY14 7ER ("the
Applicant")**

**Mr John Barret, Ms Debbie Anderson, No 2 Easter Kilwhiss Farm Cottages,
Ladybank, Fife, KY15 7UR ("the Respondent")**

Tribunal Members:

Andrew McLaughlin (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

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

**This matter called for a Hearing on 20 November 2018 at Fife Voluntary Action,
16 East Fergus Place, Kirkcaldy, KY1 1XT.**

**The Applicant was present together with his Solicitor, Mr Ralph McCran. There
was no appearance by or on behalf of the Respondent.**

**After discussing the issues raised in the Case Management Discussion that
took place on 9 October 2018, the Tribunal began by hearing evidence from the
Applicant and subsequently his daughter, Ms Robyn Graham on the bespoke
point of whether the Form AT5 had been given to the Respondents prior to the
signing of the tenancy. Having heard from both witnesses, the Tribunal was
satisfied that the Form AT5 was presented to the Respondents on 5 January
2018 and was then signed by the Respondents on 6 January 2018 when they
also signed the tenancy agreement. The Tribunal was quite satisfied therefore
that the tenancy was a valid Short Assured Tenancy.**

Mr McCran then addressed the Tribunal on the issue of whether the Short Assured Tenancy had been validly brought to an end by the service of a s33 Notice and a Notice to Quit.

The Tribunal observed that it appeared that the tenancy was, unintentionally, for a period of 183 days. Accordingly calculating what date the tenancy reached its ish on involved calculating a date that allowed for two subsequent periods of 183 days of tacit relocation. Accordingly the ish of the tenancy would have been on 8 July 2018. The s33 notice and the notice to quit provided a date of 9 July 2018.

The Tribunal were asked to consider that the wording of s33 of the Act had been met and that by providing the Respondents with an unnecessary, additional day, the notices remained valid and had fulfilled the statutory test.

The Tribunal adjourned to consider matters and noted that, on the face of it, the requirements of s33 of the Act had been met and no representations were being made to the contrary. Accordingly the Tribunal granted the order sought.

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.

Andrew McLaughlin

Legal Member/Chair

Date

20/11/18