



**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/18/2499

**Re: Property at 7 St Andrews Court, Bellshill, North Lanarkshire, ML4 1FD
("the Property")**

Parties:

Adelphi Scott Limited, 19 Adelphi, Aberdeen, AB11 5BL ("the Applicant")

**Mr Darren Leach, Ms Sarah Kelman, 7 St Andrews Court, Bellshill, North
Lanarkshire, ML4 1FD ("the Respondents")**

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that an order for recovery of possession should be
granted in favour of the applicant.**

Background

An application was received from Core Citi Limited, the landlord's representative, on 14 September 2018 under rule 66 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ('the 2017 rules') seeking recovery of possession of the property under a short assured tenancy by the applicant against the respondents.

The application included: the tenancy agreement; copies of two form AT5s, one for each respondent; a copy of the notice required under section 33 (1) (d) of the 1988 Act ('the section 33 notice'); a notification of a change of landlord; a copy of the Notice to Quit; and a copy of the Notice to the local Authority under section 11 of the Homelessness (Scotland) Act 2003.

The application was initially rejected by the tribunal on 20 November 2018 because the applicant's representative had failed to provide evidence of service of the Notice to Quit and the section 33 notice as requested. The applicant's representative then requested a review of the rejection decision, stating that the email requesting the information had been overlooked, and providing evidence of personal service of the Notice to Quit on both respondents. The tribunal issued a review decision on 10 December 2018, setting aside the rejection decision. The application was then reconsidered, and was accepted on 12 December 2018.

Notice of the case management discussion, together with the application papers and guidance notes, were served on both respondents by sheriff officers on behalf of the tribunal on 9 January 2019.

No written representations were received from the respondents prior to the case management discussion.

The Case Management Discussion

A case management discussion was held on 24 January 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicant was represented by Ms Elle Piaget, Office Manager with Core Citi Limited. She was accompanied by Mr William Falconer, Manager, and Mr Craig Paterson, Maintenance Supervisor, both of Core Citi Limited, who gave evidence as witnesses on behalf of the applicant. Neither of the respondents was present or represented.

The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a case management discussion had been duly complied with. The tribunal delayed the start of the discussion by 10 minutes, in case the respondents had been detained. They did not appear, however, and no telephone calls or messages had been received from them. The tribunal therefore proceeded with the case management discussion in the absence of the respondents.

Ms Piaget on behalf of the applicant asked the tribunal to grant an order against the respondents for recovery of possession of the property.

Findings in Fact

The tribunal made the following findings in fact:

- There was a tenancy in place between the applicant and the respondents. The respondents' tenancy commenced on 10 April 2014. The tenancy was for an initial period of 6 months. The respondents were still living in the property as at the date of the case management discussion.
- The landlord under the tenancy agreement was Caversham Management Limited ('the former landlord'). The applicant's representative wrote to the respondents on 22 November 2017, to inform them that the property had changed ownership, and that as from 9 November 2017, their new landlord

was Adelphi Scott Limited. The title deed for the property shows that Adelphi Scott Limited has owned the property since 9 November 2017.

- The two AT5 forms, one for each respondent, were in the prescribed format and had been signed by Core Citi Limited, as agent for the former landlord, and by the respondents, on 28 March 2014. The tenancy agreement had been signed by Core Citi Limited and the respondents on the same date.
- The tribunal was therefore satisfied that there had been a short assured tenancy in place between the parties.
- Both the Notice to Quit and section 33 notice contained the prescribed information and both were dated 8 June 2018. These notices stated that the applicant required vacant possession of the property on or before 10 August 2018.
- The tenancy therefore reached its end on 10 August 2018.
- Mr Falconer and Mr Paterson confirmed to the tribunal that they had personally served the Notice to Quit and section 33 notice on both respondents on 9 June 2018. They said that they had handed a copy of each document to both of the parties, and a further copy individually to each of them, at the property on that date. There was also an undated handwritten letter from Ms Kelman on the application file, confirming that she had received the Notice to Quit on 9 June 2018, and was aware that she had been asked to leave by 10 August 2018. The tribunal was therefore satisfied that these notices had been validly served on the respondents.

Reasons for decision

Section 33 of the 1988 Act requires the tribunal 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. The tribunal is satisfied that these requirements have been met. The tribunal is therefore required to grant an order for possession under section 33 of the 1988 Act.

Decision

The tribunal grants an order in favour of the applicant against the respondents 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.

Ms Sarah O'Neill

Legal Member/Chair

24/1/19

Date