



**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/19/3829

Re: Property at 8 Garelet Place, Irvine, KA11 1EX (“the Property”)

Parties:

Mr Jon-Paul Morrey, 8 Heron Close, Uxbridge, UB8 1BJ (“the Applicant”)

**Mr Christopher White, Ms Stacey Crossan, 8 Garelet Place, Irvine, KA11 1EX
 (“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

1. An application was received on 28 November 2019 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.
2. The application included: the tenancy agreement; copies of the form AT5 addressed to each respondent; a copy of the notice required under section 33 of the 1988 Act (“the section 33 notice”) addressed to each respondent; copies of the Notice to Quit addressed to each respondent, together with proof of service by sheriff officer of the Notice to Quit and section 33 notice on each respondent; and a copy of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003.

3. Notice of the case management discussion, together with the application papers and guidance notes, had been served on the respondents by sheriff officers on behalf of the tribunal on 27 December 2019.
4. No written representations were received from the respondents.

The Case Management Discussion

5. A case management discussion (CMD) was held on 28 January 2020 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The CMD had been arranged by conference call, and the applicant was present by conference call. His representatives, Ms Sharon Campbell and Ms Cassie Mitchell of GSL Lettings, were present at the CMD in person.
6. The respondents did not attend the CMD by conference call. The tribunal delayed the start of the CMD by 10 minutes, in case the respondents had been detained. They did not attend the conference call, however, and no telephone calls, messages or emails had been received from them. The tribunal did not have telephone numbers for the respondents, and was therefore unable to call them.
7. 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 CMD had been duly complied with. The tribunal therefore proceeded with the CMD in the absence of the respondents.
8. Ms Campbell asked the tribunal to grant an order in favour of the applicant against the respondents for recovery of possession of the property.

Findings in Fact

9. The tribunal made the following findings in fact:
 - The applicant is the owner of the property.
 - There was a short assured tenancy in place between the applicant and the respondents. The tenancy commenced on 24 November 2014 for an initial period of 6 months, continuing on a month to month basis thereafter.
 - The AT5 forms were in the prescribed format and had been signed by the applicant's agent at 10.20am on 24 September 2014, and by the respondents at 10.30 on the same date. The tenancy agreement had been signed by the applicant's representative at 10.40am and by the respondents at 10.50 am on the same date.
 - The tenancy agreement provided that the applicant could terminate the tenancy by written notice to quit, terminating the tenancy on at least 2 months' notice, in order to prevent tacit relocation.

- Both the Notices to Quit and section 33 notices contained the prescribed information and both were dated 25 July 2019. These notices stated that the applicant required vacant possession of the property on or before 23 October 2019.
- The tenancy therefore reached its end on 23 October 2019.
- The Notices to Quit and section 33 notices had been served on the respondents by sheriff officer on 29 July 2019, providing more than two months' notice of vacant possession.

Reasons for decision

10. The tribunal was satisfied that the Notices to Quit and section 33 notices had been validly served on the respondents.
11. 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.



Legal Member/Chair

28/1/20
Date