



**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/23/1136

**Re: Property at Stables Cottage, Keithick Estate, Keithick, Coupar Angus, PH13
9NE (“the Property”)**

Parties:

**The Trustees of Keithick Estate, Keithick Farm, Coupar Angus, Perthshire, PH13
9NF (“the Applicants”)**

**Mr Brendan Sweeney and Ms Denise Lowe, both Stables Cottage, Keithick
Estate, Keithick, Coupar Angus, PH13 9NE (“the Respondents”)**

Tribunal Members:

George Clark (Legal Member) and Helen Barclay (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be determined without a
Hearing and made an Order for Possession of the Property.**

Background

1. By application, dated 12 April 2023, the Applicants sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy.
2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 29 November 1999. Its termination date was 29 November 2000, since when the tenancy has continued by tacit relocation. The Applicants also supplied copies of a Notice given under Section 33 of the 1988 Act and a Notice to Quit, both dated 5 August 2022, and both requiring the Respondents to vacate the Property by 28 November 2022.

3. On 25 May 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 15 June 2023. The Respondents did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 29 June 2023. The Applicants were represented by Mr Kevin Lancaster of Hodge Solicitors LLP, Coupar Angus. The Respondents were not present or represented.
5. The Tribunal Chair advised that, as the Section 33 Notice and the Notice to Quit had been validly served, the only matter for consideration was whether it would be reasonable to make an Order for Possession.
6. The Applicants' representative told the Tribunal that the Applicants are owners of a small estate on which are a number of properties occupied by a mixture of employees and tenants. The Applicants are changing the two houses adjoining the present Property into holiday lets and intend to use the Property as accommodation for an employee who will manage the holiday lets. There are no other properties on the estate which are currently vacant and could provide alternative accommodation for the employee. He understood that the Respondents are both in employment and have no dependants living with them. He did not know whether the Respondents have been in contact with the local authority with a view to being re-housed. Finding accommodation on the estate for employees was very difficult and the estate sometimes had to resort to sourcing private lets elsewhere or to static caravans in order to house employees.

Reasons for Decision

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
8. Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.
9. The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was no longer operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been

properly given. The remaining matter for the Tribunal to consider was, therefore, whether it would be reasonable to issue an Order for Possession.

10. The Tribunal considered carefully all the evidence before it and noted in particular that accommodation is required for an employee to manage holiday lets which are immediately adjacent to the Property and that no other accommodation is available on the estate. The Tribunal also noted that Notice to Quit was served on the Respondents more than 10 months ago and that, as a consequence of the Cost of Living (Tenant Protection) (Scotland) Act 2022, it will be some months before any Order can be enforced. On the basis of the information before it and in the absence of any representations on behalf of the Respondents which might indicate otherwise, the Tribunal was satisfied that it was reasonable to make an Order for Possession.

11. The application is affected by The Cost of Living (Tenant Protection) (Scotland) Act 2022, as the application was made after 28 October 2022, when that Act came into force.

12. The Tribunal's Decision was unanimous.

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.



George Clark
Legal Member/Chair

29 June 2023
Date