

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/18/1916

**Re: Property at 46 Silvertrees Wynd, Bothwell, South Lanarkshire, G71 8FH
("the Property")**

Parties:

**Mr Mark Barrie, Mrs Janette Barrie, c/o Clyde Property Residential Letting, 1A
Helena Place, Clarkston Toll, Glasgow, G76 7RB ("the Applicants")**

**Mr Shaheed Ali, 46 Silvertrees Wynd, Bothwell, South Lanarkshire, G71 8FH
("the Respondent")**

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

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

Background

This is an application dated 27th July 2018 brought in terms of Rule 66 (Application for order for possession upon termination of a short assured tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant provided with its application copies of the short assured tenancy agreement, form AT5, Notice to Quit, Section 33 notice, Section 11 notice, and relevant executions of service.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 4th September 2018, and I was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held on 20th September 2018 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear, but was represented by Ms Euphemia Matheson, solicitor. The Respondent did not appear, nor was he represented.

I was invited by Ms Matheson with reference to the application and papers to grant the order sought.

Statement of Reasons

In terms of Section 33 of the *Housing (Scotland) Act 1988*, the Tribunal shall make an order for possession of the house let on the tenancy if:

- (a) the short assured tenancy has reached its *ish*;
- (b) tacit relocation is not operating;
- (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
- (d) the landlord has given to the tenant notice stating that he requires possession of the house.

All of the above criteria have been satisfied in this application, and accordingly the Tribunal shall make an order for possession.

The Tribunal noted a minor error contained within the section 33 notice, where it narrates in a pre-amble at the start of the content of the notice that the contractual tenancy "ends on 16th June 2018". The accompanying notice to quit of even date with the section 33 notice correctly utilises the *ish* date of 16th July 2018 (an *ish* date of the lease).

However, the notice to quit is valid, and brought the contractual tenancy to an end on 16th July 2018, and the section 33 notice advises the tenant that he is to vacate the premises on or by 25th July 2018, a date self-evidently after the 16th July 2018.

As there is no prescribed content for a section 33 notice, this error appears to the Tribunal to be one of narration only, and does not affect the validity of the notice, which has been properly served with the appropriate period of notice to the Respondent.

Decision

In these circumstances, I will make an order for possession of the house let on the tenancy as sought in this application.

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.

Neil Kinnear

Legal Member/Chair

20/09/18

Date