



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 33 of the Housing (Scotland)
Act 2018**

Chamber Ref: FTS/HPC/EV/18/2394

**Re: Property at 1/1, 23 Banner Drive, Knightswood, Glasgow, G13 2HW (“the
Property”)**

Parties:

Mr Stewart Morgan, 16 Alston Gardens, Bearsden, G61 4RZ (“the Applicant”)

**Mr James Russell, 1/1, 23 Banner Drive, Knightswood, Glasgow, G13 2HW
 (“the Respondent”)**

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

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

Background

An application was received under rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a short assured tenancy by the applicant against the respondent for the property.

The application contained:-

- A copy of the tenancy agreement,
- a copy of the lease renewal,
- a copy of the AT5,
- a copy of the Section 33 Notice,
- a copy of the Notice to Quit,

- sheriff officers certificate of service for the notice to quit and section 33 notice and the section 11 notice to local authority with accompanying email.

Notice of the Hearing had been served on the respondent by sheriff officers on 19 October 2018.

The applicant's agent, Ms Matheson appeared on behalf of the applicant. The respondent did not appear. As I was satisfied that the Respondent had been served with notice of today's hearing, I was prepared proceed with today's case management discussion in his absence.

Case Management Discussion

The applicant referred me to the papers which had been lodged in support of the application, including the tenancy agreement, the AT5, notice to quit, Section33 notice and certificate of service. She advised that the respondent was still residing in the property and therefore, she was seeking an order for recovery of the possession of the property.

Findings in Fact

I found the following facts established:-

There was a tenancy between the applicant and the respondent. It had commenced on 1 November 2013 for an initial period of 12 months until 1 November 2014, it continued thereafter on a month to month basis. It had been renewed on 1 May 2017 for a further period of 12 month period until 1 May 2018 and at the end of that period it continued thereafter on a monthly basis.

The tenancy agreement was made on 28 October 2013 by the parties. It was renewed on 1 May 2017.

The AT5 Form was in the prescribed format and it had been received by the respondent on 28 October 2013. It had been signed by the respondent.

I was satisfied that a short assured tenancy had been created.

The notice to quit and section 33 notices both contained the prescribed information and both were dated 20 April 2018, both sought vacant possession as at 1 July 2018 and there was evidence that these notices had been served by sheriff officers on 20 April 2018. They both provided more than 2 months' notice of vacant possession.

I was satisfied with their terms and that they had been served on the respondent.

Reasons for Decision

Section 33 of the 1988 Act requires me 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. I am satisfied that these requirements have been met and I therefore consider that I am required to grant an order for eviction under section 33 of the 1988 Act

Decision

I grant an order in favour of the applicant against the respondent for recovery of possession of the short assured tenancy.

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 Melanie Barbour

Legal Member/Chair

12. 11. 18

Date