



**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/18/3417

**Re: Property at 26 Pinewood Court, Milton of Leys, Inverness, IV2 6GZ (“the
Property”)**

Parties:

Mr Michael Mackie, 26 Muirfield Station, Gullane, EH31 2HY (“the Applicant”)

**Ms Catriona Campbell, 26 Pinewood Court, Milton of Leys, Inverness, IV2 6GZ
 (“the Respondent”)**

Tribunal Members:

Helen Forbes (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for possession of the Property should be
granted.**

Background

The Applicant sought an order for possession of the Property in terms of section 33
of the Housing (Scotland) Act 1988.

The Tribunal had before it the following documents:

1. Application received in the period between 14th December 2018 and 16th
January 2019;
2. Short Assured Tenancy agreement dated 12th April 2017 – tenancy to
commence 13th April 2017 to 14th October 2017 and monthly thereafter;
3. AT5 dated 12th April 2017;
4. Notice to Quit dated 12th October 2018;
5. Section 33 Notice dated 12th October 2018;
6. Section 11 Notice to Local Authority;
7. Certificate of Intimation by Sheriff Officers of NTQ and section 33 Notice on
12th October 2018;

8. Title Sheet INV20722;
9. Notification by Applicant authorising agent to act on his behalf dated 18th December 2018;
10. Notification from joint owner of the Property that application could commence in the Applicant's name only dated 19th December 2018;
11. Certificate of Intimation by Sheriff Officers of case papers and hearing date dated 22nd February 2019.

Case Management Discussion

A Case Management Discussion took place on 15th March 2019 in the Spectrum Centre, 1 Margaret Street, Inverness. The Applicant was not present and was represented by Mrs Alice Cochrane of Tughan and Cochrane Property Managers. The Respondent was present.

Preliminary Matters

1. The Respondent had requested in advance that the case be heard in private. There were no members of the public present and the Respondent indicated that she was happy to continue with the hearing in the circumstances.
2. The Respondent had sent an email to the Housing and Property Chamber dated 13th March 2019 outlining her circumstances in relation to existing rent arrears and the possibility of her arrears being cleared following settlement of her divorce action. A mandate had been prepared by her solicitor and provided to the agent for the Applicant. The mandate was provided to the Housing and Property Chamber. The agent for the Applicant responded by email dated 14th March 2019 setting out the Applicant's situation and response to matters raised by the Respondent. The Tribunal Member explained that the matters contained in these emails could not be taken into account as this is an application under section 33 of the Housing (Scotland) Act 1988 and is not based on rent arrears, but on bringing the Short Assured Tenancy to an end in terms of the 1988 Act.

The agent for the Applicant said the Application had been made due to ongoing rent arrears which had been accruing over a considerable period. There had been discussion in the past and advice had been given to the Respondent to seek Housing Benefit but she had not taken that advice. Payment in the sum of £225 had been made the previous day, and the sum of £2980 was outstanding.

The Respondent said that her work situation had improved and she would soon be in a position to pay the rent and make payment towards the arrears. She said she appreciated the difficulty the situation had caused to the Applicant but she was not in a position to get an overdraft or a bank loan. She hoped that her divorce settlement would be made next month and the rent arrears would then be cleared.

The Tribunal Member explained again that these matters could not be taken into account in making a decision. The agent for the Applicant was asked whether there was any scope for further discussion or whether she wished to move for the order

today. The agent said there had been much discussion in the past and the situation had not changed. She moved that the order be granted.

Findings in Fact

- (i) The parties entered into a Short Assured Tenancy agreement on 13th April 2017. The initial term of the tenancy was until 14th October 2017 and monthly thereafter until ended by either party.
- (ii) Notice to Quit and Section 33 Notice dated 12th October 2018 were served on the Respondent on 12th October 2018, requiring the Respondent to remove from the Property by 14th December 2018. The Respondent did not remove herself from the Property.
- (iii) The 14th December 2018 is an ish date of the tenancy. The Notice to Quit is valid and operates to terminate the contractual tenancy.
- (iv) The Applicant has complied with the requirements of section 33 of the Housing (Scotland) Act 1988.

Reasons for Decision

The Tribunal found that the required notices were valid and had been correctly served. The Short Assured Tenancy has been terminated and tacit relocation is not operating. The requisite period of notice has been properly given. The Tribunal has no option but to grant the order sought.

Decision

The Tribunal grants an order for 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.

H.Forbes

Legal Member/Chair

15th March 2019

Date