



**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/19/2317

**Re: Property at 40 Loganswell Gardens, Deaconsbank, Glasgow, G46 8HU
("the Property")**

Parties:

**Ms Jennifer Odell, c/o The Property Bureau, Melville House, 70 Drymen Road,
Bearsden, G61 2RH ("the Applicant")**

**Miss Nichola Marie Weir, 40 Loganswell Gardens, Deaconsbank, Glasgow, G46
8HU ("the Respondent")**

Tribunal Members:

Andrew Upton (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that an eviction order should be granted against the
Respondent.**

FINDINGS IN FACT

1. The applicant was the landlord, and the respondent the tenant, of the Property under and in terms of a Short Assured Tenancy Agreement which commenced on 27 January 2017 ("the Tenancy Agreement").

2. The applicant served a Notice to Quit dated 8 April 2019 on the Respondent to terminate the contractual Tenancy Agreement with effect from 27 June 2019.
3. The Applicant served a notice on the Respondent dated 8 April 2019 under section 33(1)(d) of the Housing (Scotland) Act 1988.

FINDINGS IN FACT AND LAW

1. The contractual Tenancy Agreement reached its end at 27 June 2019.
2. Tacit relocation is not operating on the Tenancy Agreement
3. The requirements of section 33 of the Housing (Scotland) Act 1988 having been satisfied by the Applicant, an eviction order should be granted against the Respondent.

STATEMENT OF REASONS

1. This action called before me for a Case Management Discussion on 13 December 2019 at 2.00pm, together with the grouped action CV/19/2318. The Applicant was represented by Mrs Saddiq, solicitor, by way of conference call. The Respondent was neither present nor represented.

Submissions for the Applicant

2. Mrs Saddiq referred me to the application. She confirmed that the tenancy was a Short Assured Tenancy. She submitted that the contractual tenancy had been terminated by service of a valid notice to quit. She submitted that a notice as required by section 33(1)(d) had been served on the Respondent giving a period of notice in excess of two months. She submitted that the requirements of section 33 of the Housing (Scotland) Act 1988 were satisfied, and that an eviction order ought to be granted.

Discussion

3. In terms of Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”), I may do anything at a Case Management Discussion that I may do at a Hearing, including making a decision. Having regard to the Overriding Objective in Rule 2 of the Rules, I considered that it was appropriate for me to make a decision at the CMD.

4. In terms of section 33 of the Housing (Scotland) Act 1988:-

“33.— Recovery of possession on termination of a short assured tenancy.

(1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal shall make an order for possession of the house if the Tribunal is satisfied—

(a) that the short assured tenancy has reached its ish;

(b) that tacit relocation is not operating; and

...

(d) that the landlord (or, where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house.”

5. Section 33 is prescriptive. If the Applicant can satisfy the Tribunal that all of the conditions in section 33 are satisfied, then the Tribunal has no discretion. It must grant the order.

6. The Short Assured Tenancy commenced on 27 January 2017. It had an initial period of six months. Clause 1.1 of the Tenancy Agreement provided that the contract would continue thereafter on a monthly basis until terminated by either party giving the other not less than two months’ notice in writing. As such, from 27 July 2017 onwards, the tenancy reached its ish as at the 27th of each month and continued by tacit relocation to the 27th of the following

month. That continued until the Applicant served on the Respondent the Notice to Quit dated 8 April 2019. That gave notice that the contractual tenancy would end on 27 June 2019. That notice gave more than two months' notice that the tenancy would terminate at that ish date. Accordingly, tacit relocation stopped operating as at 27 June 2019. The first two conditions of section 33 are satisfied.

7. Further, the Applicant gave the tenant a notice dated 8 April 2019 confirming that the Applicant required possession of the property as at 27 June 2019, in terms of section 33(1)(d) of the 1988 Act. Accordingly, all of the conditions of section 33 are satisfied. That being so, I considered that I had no discretion. I granted the eviction order.

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.

A Upton

Legal Member/Chair

13 DECEMBER 2019

Date