

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/18/0814

Re: Property at 78 Mainsacre Drive, Stonehouse, ML9 3QH (“the Property”)

Parties:

**Ms Fiona Brown, 39 South Road, Chapel Street, Leonards, Skegness,
Lincolnshire, PE24 5TL (“the Applicant”)**

**Mr Craig Muldoon, 78 Mainsacre Drive, Stonehouse, ML9 3QH (“the
Respondent”)**

Tribunal Members:

Melanie Barbour (Legal Member)

Decision

**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 the tenancy agreement, a copy of the AT5, a copy of the Section 33 Notice, a copy of the Notice to Quit, and certificate of service for the notice to quit and the section 33 notice.

Notice of the Hearing had been served on the respondent by sheriff officers on 8 May 2018.

The applicant's letting agents, Shona Graham and Steven Rollo appeared on behalf of the applicant. The respondent appeared together with his wife, Lia Muldoon, as his supporter.

Case Management Discussion

The applicant referred me to the papers which had been lodged in support of the application, including the tenancy agreement, AT5, notice to quit, Section 33 notice and certificate of service.

The respondent confirmed they had had a chance to look at the application which they had received. They confirmed that they were not disputing any aspect of the paperwork.

Findings in Fact

I found the following facts established.

There was a tenancy in place between the applicant and the respondent. It had commenced on 13 November 2015 for an initial period of 6 months until 14 May 2016, and then it continued on a month to month basis thereafter.

The tenancy provided that in the event that the landlord wished to terminate the lease he had to provide two months' notice.

Rent was due per calendar month at the amount of £550 payable in advance.

The tenancy agreement had been signed on 13 November 2015 by the parties. It had been signed at 11.27-11.28am by the respondent.

The AT5 Form was in the prescribed format and it had been received by the respondent on 13 November 2015 at 11.15am.

I was satisfied that short assured tenancy had been created.

The notice to quit and section 33 notices both contained the prescribed information and both were dated 21 November 2017, both sought vacant possession as at 14 February 2018 and there was evidence that these notices had been served by recorded delivery. 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 therefore I consider that require 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.

M Barbour

Legal Member/Chair

8/6/18

Date