



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/18/0026

Re: Property at 14 Melfort Place, Dundee, DD3 0SD (“the Property”)

Parties:

Mr Derek Smith, Mrs Susan Smith, 5 Silver Birch Drive, Dundee, DD5 3NS (“the Applicants”)

Ms Alison Stewart, 14 Melfort Place, Dundee, DD3 0SD (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision (in absence of the Respondent)

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

- This is an application by the Applicants seeking an order for the recovery of possession of the Property in respect of Section 33 of the Housing (Scotland) Act 1988.
- A Case Management Discussion was convened at Kirkton Community Centre, Dundee at 10am on 29 March 2018. The Applicants were present together with their legal representative, Ms Tanya Royal. The Respondent was not present.
- Having heard from the Applicants’ representative and having considered the documentation the Tribunal finds in fact that: there is a short Assured Tenancy in place between the Applicants and the Respondent in respect of the Property; the Applicants have served a valid s33 notice and Notice to Quit providing the Respondent with the requisite period of notice of her requirement to leave the Property; the Applicants have provided the local authority with the appropriate notice in respect of s11 of the Homelessness Etc. (Scotland) Act 2003.

- Accordingly the Tribunal grants the order as sought. The Tribunal refuses to shorten the period when this order may be enforceable. The Tribunal was invited to do so by the Applicants on account of concerns they have regarding the safety of the electrics in the Property. The Tribunal notes that the Applicants have a separate and distinct right to apply to the Tribunal to seek a right to enter the Property and as such it is not appropriate to shorten the period when this order may be enforceable for that purpose. The Tribunal considers that would be an inappropriate infringement on the Respondent's appeal rights.

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 McLaughlin

Legal Member/Chair

29/3/18

Date