



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 (“the 1988 Act”) and Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/EV/18/1340

Re: Property at Flat G/1, 25 Dundonald Street, Dundee, DD3 7QA (“the Property”)

Parties:

Mr George Kwek, SGL Property Ltd, Top Floor, 86 Bell Street, Dundee, DD1 1HN (“the Applicant”)

Thorntons Solicitors, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ (“the Applicant’s Representative”)

Mr Junusz Powirski, Flat G/1, 25 Dundonald Street, Dundee, DD3 7QA (“the Respondent”)

Tribunal Members:

Susanne L M Tanner Q.C. (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) (i) was satisfied in terms of Section 33 of the 1988 Act that the short assured tenancy for the Property has reached its end; tacit relocation is not operating; no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and the landlord has given to the tenant two months’ notice stating that he requires possession of the house; and (ii) made an order for possession in terms of Section 33 of the 1988 Act.

- 1. The Applicant made an application to the tribunal on 30 May 2018 in terms of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”) and Rule 66 of**

the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules").

2. The Applicant sought the Respondent's eviction from the Property under Section 33 of the 1988 Act.
3. The Applicant lodged:
 - 3.1. a copy of the short assured tenancy agreement dated 1 June 2015;
 - 3.2. a copy of the notice to quit under Section 33(1)(d) of the 1988 Act, dated 31 January 2017, notifying the Respondent that the Landlord required possession of the Property on or before 1 January 2018;
 - 3.3. a copy of the AT6 notice in terms of Section 19 of the 1988 Act, dated 31 October 2017, informing the tenant that the earliest date proceedings would be raised was 2 January 2018;
 - 3.4. copy execution of service of Notice to Quit, AT6 and Section 33 notice by Sheriff Officers, dated 31 October 2017
 - 3.5. a copy of the Section 11 Notice which was sent to the local authority.
4. The short assured tenancy was signed by both parties on 1 June 2015. Paragraph 1 provides that *"The initial period of let will be from 1 June 2015 ... and terminating on 1 December 2015, or such other date as may be agreed between the landlord and the tenant. The landlord or the tenant may terminate this lease on 1 December 2015 by giving the other party two months' notice to that effect. In the event of neither party giving notice as aforesaid the lease shall continue on a month to month basis until terminated by either party giving two months' notice to the other as aforesaid."*
5. On 13 July 2018 the Respondent was notified of the hearing and afforded the opportunity to return written representations to the tribunal's offices by 3 August 2018. The Respondent did not submit any written representations.
6. A hearing took place at Dundee Carers' Centre, Seagate House, Dundee, DD3 7QA on 13 August 2018. Ms Ling Deng, Solicitor and Ms Anzal Baig, Trainee Solicitor, from the Applicant's Representative attended the hearing. The Respondent did not appear and the hearing took place in his absence.
7. Ms Deng submitted that the tenancy had reached its end. She pointed to the terms of the short assured tenancy agreement and advised that the tenancy had continued after 1 December 2015 by tacit relocation on a month to month basis until terminated with the service of a valid notice to quit on 31 October 2017 notifying the tenant that the landlord required possession of the Property on or before 1 January 2018. Said notice was served at least two months before possession of the house was required. The certificate of service by Sheriff Officers dated 31 October 2017 was lodged.
8. The tribunal makes the following findings-in-fact:
 - 8.1. There was a short assured tenancy between the parties for the period 1 June 2015 to 1 January 2018;
 - 8.2. The short assured tenancy reached its end on 1 January 2018;

- 8.3. Tacit relocation is not operating;
 - 8.4. No further contractual tenancy is for the time being in existence;
 - 8.5. The landlord has given to the tenant at least two months' notice stating that he requires possession of the Property.
9. The tribunal is satisfied that the requirements of Section 33 of the 1988 Act are met and therefore must make 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.

Susanne Tanner

**Susanne L M Tanner Q.C.
Legal Member/Chair**

13 August 2018