



**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/22/0873**

**Re: Property at 24 Alexander Drive, Tillydrone, Aberdeen, AB24 2XE (“the Property”)**

**Parties:**

**Mrs Alison Iveson, C/o Martin and Co Aberdeen, 123-125 Rosemount Place, Aberdeen, AB25 2YH (“the Applicant”)**

**Mr Adeyinka Alase, 24 Alexander Drive, Tillydrone, Aberdeen, AB24 2XE (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicants sought an order to evict the Respondent from the property
2. By decision dated 30 May 2022 (erroneously dated 30 March 2022), a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant’s representative on 8 June 2022. The Tribunal intimated the application to the parties by letter of 7 July 2022 and advised them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told

that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 28 July 2022. No written representations were received by the Tribunal.

### **The case management discussion**

4. The case management discussion took place by conference call. The Applicant was represented by Mr Barr and the Respondent represented himself. The Respondent indicated that he was opposed to the application. He explained that he lives in the property with his partner and 3 children. He accepted that notices had been served on him but could not recall seeing the notice served in terms of section 33 of the Housing (Scotland) Act 1988 until he received the papers for this case. The Respondent indicated that he accepts that there are some rent arrears, but his position was that the arrears are not as stated by the Applicant. The Respondent has been actively looking for alternative accommodation but has not identified another suitable property. The Respondent has also been in touch with his local authority regarding alternative accommodation but the authority was unable to assist him. The Applicant's representative advised that eviction is sought on the basis that the requirements of section 33 of the Act have been met: the tenancy has reached its end, tacit relocation is not operating and there is no contractual tenancy. The notice to quit and the section 33 notice were sent to the Respondent in the same envelope by recorded delivery post and a further copy was hand delivered to the Respondent. He explained that over the period of the tenancy, rent arrears have been incurred and arrears currently amount to £5925.75. The Applicant's representative served notices on the Respondent in November 2020. Although those notices were found to be defective by a differently constituted Tribunal, it was submitted that the Respondent received notice some 21 months ago that the Applicant wished to recover possession. The Applicant's representative had tried to assist the Respondent in identifying alternative accommodation. Ultimately, if the Applicant recovers possession, she intends to sell the property. It was submitted that in all of the circumstances, it was reasonable to grant an order for eviction.

### **Findings in Fact**

5. The parties entered into a short assured tenancy dated 12 January 2017.
6. The initial term of the tenancy was from 12 January 2017 to 11 July 2017.
7. After the initial term, the tenancy continued on a two monthly basis.
8. The Applicant's representative served the Notice to Quit and Section 33 Notice on the Respondent by recorded delivery post on 29 July 2021.
9. The short assured tenancy had reached its end.

10. Tacit relocation was not operating.
11. No further contractual tenancy is in operation.

### **Reason for Decision**

12. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Tribunal was satisfied that the notice to quit and section 33 notice were served more than 12 months ago. It was satisfied that the tenancy had been terminated in accordance with section 33 of the Act and that no further tenancy was in operation. The Tribunal took account of the Respondent's personal and financial circumstances as narrated by him. Although there was a factual dispute between the parties in relation to the level of rent arrears, the ground of eviction relied upon did not relate to rent arrears. The Tribunal therefore did not need to hear evidence about the level of rent arrears or make any finding in fact about that. The Tribunal was persuaded that on balance, it was reasonable to grant the order evicting the Respondent from 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.**

# Nicola Irvine

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Legal Member/Chair

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15 August 2022  
Date