

**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/22/2757**

**Re: Property at 19 Bonnethill Place, Dundee, DD1 2AD (“the Property”)**

**Parties:**

**Mr Johanna Walker, Mrs Graeme Walker, 11 Dunluce Manor, Bushhills, County  
Antrim, BT57 8WZ (“the Applicants”)**

**Miss Chelsea Thomson, 19 Bonnethill Place, Dundee, DD1 2AD (“the  
Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Angus Lamont (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the Applicants were entitled to an order for  
possession of the property and the removal of the Respondent from the  
property in terms of Section 33 of the Housing (Scotland) Act 1988**

**Background**

1. By application dated 8 August 2022 the Applicants’ representatives, Direct Lettings, Dundee, applied to the Tribunal for an order for possession of the property under Section 33 of the Housing (Scotland) Act 1988.”). The Applicants’ representatives submitted copies of the Short Assured tenancy agreement, Form AT5, Notice to Quit, Section 33 Notice, proof of service, Section 11 Notice and proof of service in support of the application.
2. Following further correspondence with the Tribunal administration a legal member of the Tribunal with delegated powers by Notice of Acceptance dated 31 October 2022 accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 2 December 2022.

### **The Case Management Discussion**

4. A Case Management Discussion was held by teleconference on 1 February 2023. The Applicants did not attend but were represented by Ms Jacqueline McAinsh from Direct Lettings, Dundee. The Respondent attended in person.
5. The parties agreed that the Respondent entered into a Short Assured tenancy that commenced on 7 June 2014 and endured until 6 June 2015 at a rent of £495.00 per calendar month. The parties also agreed that thereafter the tenancy continued from month to month until terminated by either party giving notice in terms of the tenancy agreement.
6. The parties agreed that the Applicants served a Notice to Quit and Section 33 Notice on the Respondent by Sheriff Officers on 25 May 2022 giving the Respondent until 7 August 2022 to remove from the property.
7. The Respondent confirmed that she had continued to reside in the property as she had been advised by Dundee City Council that she had to wait until the Tribunal issued an order for her eviction before the homeless unit would provide her with accommodation. The Respondent explained that she lived in the property with her two children aged 5 and 8. She said they did not have any special needs or health issues. The Respondent confirmed she did not wish to oppose the application.
8. For the Applicants, Ms McAinsh explained that the Applicants wished to sell the property for financial reasons but did not have any more information. She explained that it was a colleague who had been dealing with the application but he had to attend at another hearing and was not available. Ms McAinsh offered to contact a colleague to obtain some further information.
9. After a short adjournment Ms McAinsh advised the Tribunal that she had spoken to her colleague Mr Aimer who had advised her that the applicant had financial difficulties and required to sell the property to realise capital.

### **Findings in Fact**

10. The parties entered into a Short Assured Tenancy that commenced on 7 June 2014 at a rent of £495.00 per calendar month.
11. The Respondent was served with a Notice to Quit and Section 33 Notice by Sheriff Officers on 25 May 2022 terminating the tenancy on 7 August 2022.
12. The Respondent does not oppose the validity of the notices.
13. The Respondent lives in the property with her two children aged 5 and 8.

14. Neither the Respondent nor the children have any special needs or health issues.
15. The Respondent has been advised by the local authority homeless persons team not to leave the property until an order has been granted by the Tribunal.
16. The Applicants have financial difficulties and require to sell the property to raise capital.

### **Reasons for Decision**

17. The Tribunal was satisfied from the written representations and the oral submissions that the Respondent entered into a Short Assured tenancy that commenced on 7 June 2014 at a rent of £495.00 per calendar month and endured until 6 June 2015 and then continued from month to month thereafter. The Tribunal was also satisfied that a valid Notice to Quit and Section 33 notice had been served on the Respondent by Sheriff Officers on 25 May 2022. The Tribunal was also satisfied that a Section 11 Notice had been sent to Dundee City Council advising them of these proceedings.
18. Were it not for the provisions of the Coronavirus (Scotland) Act 2020 and the Coronavirus Recovery and Reform (Scotland) Act 2022 the Tribunal would have been obliged to grant the order sought without further enquiry. However, in terms of these Acts the Tribunal requires to be satisfied that it is reasonable in the circumstances to grant the order. In reaching its decision the Tribunal has taken account of the submissions made on behalf of both parties. The Tribunal has noted that the Respondent does not oppose the order sought and has been advised that she must remain in the property until an order for possession has been granted before the local authority will assist in providing her with accommodation for herself and her two young children. The Tribunal also noted that the Applicants were in financial difficulty and required to sell the property to raise capital. In the circumstances the Tribunal was satisfied that it was reasonable to grant the order sought. It did however consider that it would be reasonable to give the Respondent some additional time to find suitable alternative accommodation and that the order should not come into effect until a period of six weeks had passed.

### **Decision**

19. The Tribunal having carefully considered the written and oral submissions and being satisfied that it has sufficient information before it to allow it to make a decision without the need for a hearing finds the Applicants entitled to an order for possession of the property and the removal of 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.**

**Graham Harding**

**Graham Harding  
Legal Member/Chair**

**1 February 2023  
Date**