



**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/24/0681**

**Re: Property at 91 Broomlands Road, Cumbernauld, Glasgow, G67 2PT (“the Property”)**

**Parties:**

**Ms Agnieszka Brodalka, 3B Beechwood Road, Cumbernauld, Glasgow, G67 2NL (“the Applicant”)**

**Mrs Monika Kargul, Mr Rafal Kargul, 91 Broomlands Road, Cumbernauld, Glasgow, G67 2PT (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Ann Moore (Ordinary Member)**

**Decision (in absence of the Second Respondent)**

**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 for an order to evict the Respondents from the property.
2. On 29 April 2024, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Tribunal intimated the application to the parties by letter of 17 May 2024 and advised them of the date, time and conference call details of today’s CMD. In that letter, the parties were also told that they were 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 Respondents were invited to make written representations by 7 June 2024. No written representations were received.

### **The case management discussion**

4. The CMD took place by conference call. The Applicant and the First Respondent joined the conference call. The Tribunal was assisted by Ms Marta Szydłowska, Polish interpreter, who translated proceedings for the First Respondent. The Second Respondent did not join the conference call and the discussion proceeded in his absence. The Applicant explained that the Property is the Applicant's only rental property. The Applicant was living in accommodation which was provided by her employer. The Applicant's employment ended in December 2023 and she was served with notice to leave the property by 31 May 2024. The Applicant is unemployed and does not have any other accommodation. The Applicant returned to Poland because she had nowhere else to live. She returned from Poland on Saturday and is homeless. She requires the Property to live in. The First Respondent did not oppose the application. She explained that she and the Second Respondent have separated and the Second Respondent has vacated the Property. The First Respondent lives in the Property with her 2 sons. She has been in contact with the local authority and has been told that she has an offer of alternative accommodation, although she has not yet viewed it. The First Respondent does not know when the property will be available to her.

### **Findings in Fact**

5. The parties entered into a short assured tenancy which commenced 30 April 2016.
6. The Applicant served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by first class signed for mail on 14 September 2023.
7. The short assured tenancy had reached its end.
8. Tacit relocation was not operating.
9. No further contractual tenancy is in operation.

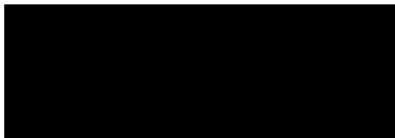
### **Reason for Decision**

10. The Tribunal proceeded on the basis of the documents and the submissions made at the CMD. The First Respondent did not oppose the application. She has been offered alternative accommodation by the local authority. The Applicant is currently homeless. The Tribunal was satisfied that the conditions

of section 33 had been met and that it was reasonable in the circumstances to grant the order evicting the Respondents 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.**



N.Irvine  
**Legal Member/Chair**

Date 24 June 2024