



**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**

Reference number: FTS/HPC/EV/24/1111

Order granted on 16 July 2024.

**Re: Property at 71 Mains Drive, Dundee, DD4 9BN (“the Property”)**

**Parties:**

**Bruce Ogilvie, residing at 6 Ballantrae Gardens, Dundee, DD4 8QA (“the Applicant”)**

**Ms Audrey Ingram, residing at 71 Mains Drive, Dundee, DD4 9BN (“the Respondent”)**

**Tribunal Members:**

**Paul Doyle (Legal Member)  
Mary Lyden (Ordinary member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988. The Applicant had lodged with the Tribunal Form E dated 07/03/2024. The documents produced were a Tenancy Agreement, a Notice to Quit and s.33 notice, both served on 28/11/2023, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. An extract search sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

**Case Management Discussion**

A case management discussion took place by telephone conference at 11.30am on 16 July 2024. The Applicant was represented by Mr J Lawson of MML Law. The

respondent was present and was represented by Mr K. Marshall of Dundee Law Centre.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondents entered into a short-assured tenancy Agreement for the Property dated 25/06/2011. The lease initially ran from 01/07/2011 to 06/01/2012.
2. The rent in terms of the Tenancy Agreement was £550 per month.
3. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
4. A notice to quit and a s.33 notice were served on the Respondents on 28/11/2023. The tenancy is a short-assured tenancy, and the respondents received the notice to quit and the s.33 notice timeously. The s.33 notice brought the tenancy to an end on 06/02/2024.
5. The Applicant sought recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988 because the short-assured tenancy had been brought to an end on 06/02/2024 by the service of the s.33 notice.
6. The respondent does not resist this application. It is not argued that it is unreasonable to grant an order for repossession of the property. The appellant lives in the property with her three teenage children. The appellant has had her name on the social housing list for some time and needs an order for repossession so that her application for housing can be considered. The appellant does not want to remain in the property if her landlord does not want her there. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.
7. The respondent offers no opposition to the application for repossession.

### **Reasons for the Decision**

8. The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The tenancy was a short-assured tenancy. Correct notice was given which brought the short-assured tenancy to an end on 06/02/2024.
9. The basis for possession set out in s.33 of the 1988 Act is established. With the benefit of legal advice, the respondent offers no defence to the application. It is reasonable to grant an order for repossession. The finite time for occupancy of the property as a short-assured tenancy has come to an end.
10. For these reasons, the Tribunal determined to grant an Order for possession.

## **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession.

## **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.**

Legal Member:

Date: 16<sup>th</sup> July 2024

**P.Doyle**