



**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/24/1199

**Property: Flat 2/1, 33 Capelrigg Road, Newton Mearns, Glasgow G77 6JW
("Property")**

Parties:

**Dr Harold Dhilwayo and Mrs Lucia Dhilwayo, 84 Berkley Street, Glasgow G3 7DS
("Applicant")**

**Marilyn Deans, Management Suite, Waverley House, Caird Park, Hamilton ML3
OQA ("Applicant's Representative")**

**Kadriye Macleod, Flat 2/1, 33 Capelrigg Road, Newton Mearns, Glasgow G77
6JW ("Respondent")**

Tribunal Members:

Joan Devine (Legal Member)

Gordon Laurie (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
("Tribunal") determined that an order for possession of the Property should be
made but to delay execution until 31 December 2024.**

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement and AT5 dated 31 October 2011; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 22 November 2023 and both addressed to the Respondent; sheriff officer certificate of service evidencing service of the Notice to Quit and Section 33 Notice on the Respondent on 22 November 2023 and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with sheriff officer certificate of service evidencing service thereof on 12 March 2024. The Tribunal had sight of a sheriff officer's execution of service

confirming service of the Application on the Respondent on 9 July 2024. On 22 July 2024 the Respondent lodged a written submission.

Case Management Discussion (“CMD”)

A CMD took place on 14 August 2024. The Applicant's Representative was in attendance as was the Respondent who was accompanied by her husband, Marcus Macleod as a supporter. Ms Deans told the Tribunal that the Applicant had noted that in the written submission lodged the Respondent had said she needed more time to find alternative accommodation. Ms Deans said the Applicant was content to allow more time and proposed that any order granted should not be capable of being enforced until 31 December 2024. The Respondent said that she was content to agree to the proposal made. The Tribunal explained that an order for possession would be issued but it would narrate that enforcement could not take place until 31 December 2024. The Respondent confirmed that she understood.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 31 January 2011.
2. The tenancy was for the period commencing 31 January 2011 to 1 August 2011 and month to month thereafter.
3. A Notice to Quit dated 22 November 2023 was served on the Respondent on 22 November 2023 stating that the tenancy would terminate on 1 March 2024.
4. A Notice in terms of Section 33 of the 1988 Act dated 22 November 2023 was served on the Respondent on 22 November 2023 stating that possession of the property was required on 1 March 2024.
5. The tenancy reached its *ish* on 1 March 2024 and is not continuing by tacit relocation.
6. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy and that a Section 33 Notice and Notice to Quit

had been served on the Respondent giving two months' notice that the Applicant required possession of the Property.

The Tribunal noted that the Parties had agreed that enforcement of the order for possession should be delayed until 31 December 2024. In those circumstances, the Tribunal determined that it was reasonable to issue an eviction order but to delay execution until 31 December 2024.

Decision

The Tribunal grants an Order for possession of the Property but to delay execution until 31 December 2024.

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.

J Devine

Legal Member

Date: 14 August 2024