



**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 (Act)**

**Chamber Ref: FTS/HPC/EV/24/1281**

**Re: Property at 13 Parkhead Gardens, West Calder, EH55 8AY (“the Property”)**

**Parties:**

**Mrs Kirsti Di Ciacca, Mr Ernest Di Ciacca, The Shambles, Skivo, Livingston, EH54 9AN (“the Applicant”)**

**Ms Laura McDonald, 13 Parkhead Gardens, West Calder, EH55 8AY (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member) and Helen Barclay (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.**

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 18 March 2024;
2. AT5 and SAT commencing 16 September 2014;
3. Notice to Quit and Section 33 Notice both dated 13 January 2024;
4. Sheriff Officer Certificate of Intimation of both Notices on the Respondent dated 15 January 2024;
6. Section 11 Notice and email serving on local authority dated 17 March 2024;
7. Sheriff Officer certificate of service of CMD Notification on 28 June 2024.

**Case Management Discussion (CMD)**

The case called for a CMD by conference call on 2 August 2024. The Applicants participated and represented themselves. The Respondent did not participate and was not represented.

The Tribunal delayed commencement of the CMD to see if the Respondent would dial-in. She did not. The Tribunal was satisfied that the Respondent had received notification of the CMD and knew that if she did not participate then the Tribunal may decide matters in absence.

The Tribunal proceeded with the CMD.

The Applicants intended to sell the Property in order to pay off the mortgage on the Property and use funds for their retirement. They had 3 other rental Properties all of which were being sold for the same reason. They had sold their own home and were now living in Spain.

The Respondent lives in the Property with her adult son. Payment of the rent is made through Universal Credit. The Respondent has been attempting to obtain alternative accommodation but has not been successful with that. The local authority will not provide assistance without an order from the Tribunal.

## **Decision and Reasons**

The Tribunal considered the oral and documentary evidence from the Applicants. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a SAT commencing 16 September 2014;
2. An AT5 had been served prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served 15 January 2024;
4. Section 11 Notice had been served on the local authority on 17 March 2024;
5. The SAT had reached its term and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicants had given the Respondent notice that they required possession;
9. The Applicants required to recover possession of the Property to sell it and realise the capital for their retirement and to pay off the mortgage on the Property;
10. The Respondent lives in the Property with her adult son and was in contact with the local authority regarding the provision of suitable alternative accommodation.

The Tribunal considered all of the evidence and submissions.

The Tribunal were satisfied that Rule 66 had been complied with.

The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Applicants needed to sell the Property to fund their retirement and pay off the mortgage on the Property.

The Tribunal granted the application for eviction and recovery of 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/ Chair: Alan Strain**

**Date: 2 August 2024**