



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 (“the 1988 Act”) and Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/EV/24/0073

Re: Property at 76/5 Mill Road, Bathgate, West Lothian, EH48 4BN (“the Property”)

Parties:

Ms Julie Ann Boyd, 16 Baillie Avenue, Harthill, ML7 5SZ (“the Applicant”)

Rent Locally, Unit 10, Flexspace, Bathgate, EH48 2EH (“the Applicant’s Representative”)

Miss Amanda Rugg, 76/5 Mill Road, Bathgate, West Lothian, EH48 4BN (“the Respondent”)

Tribunal Members:

**Ms Susanne L M Tanner Q.C. (Legal Member)
Ms Sandra Brydon (Ordinary Member)**

Decision (in absence of Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) (i) was satisfied in terms of Section 33 of the 1988 Act that the short assured tenancy for the Property has reached its end; tacit relocation is not operating; no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and the Applicants have given to the Respondent two months’ notice stating that they require possession of the house; (ii) that it was reasonable to make an order for possession in the circumstances of the case; and (iii) made an order for possession in terms of Section 33 of the 1988 Act.

Statement of Reasons

1. The Applicant's Representative made an application to the tribunal on 8 January 2024, in terms of Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules").
2. The Applicant seeks the Respondents' eviction from the Property under Section 33 of the 1988 Act (possession on termination of a short assured tenancy). Reference was also made to ground 10 but the Application was later amended to remove this, as discussed below.
3. The Applicant's Representative lodged:
 - 3.1. Copy of a short assured tenancy agreement dated 10 September 2017;
 - 3.2. Copy of an AT5 notice;
 - 3.3. Copy Section 33 Notice dated 12 September 2023;
 - 3.4. Copy Notice to Quit dated 12 September 2023;
 - 3.5. a copy of the Section 11 Notice which was sent to the local authority with proof of service dated 14 December 2023.
4. The tribunal's administration obtained the title sheet to the property which shows that the Applicant is the registered proprietor of the Property.
5. Additional information was requested by the tribunal and the Applicant's Representative provided proof of service of the Notice to Quit dated 21 September 2023; an amended Application Form removing reference to Ground 10 as the ground upon which possession is sought and a mandate from the Applicant dated 13 March 2024.
6. On 10 April 2024, the Application was accepted for determination and a Case Management Discussion ("CMD") was fixed by teleconference on 12 August 2024 at 1000h.
7. On 3 July 2024, parties were notified by letter of the date, time and place of the CMD and told that they were required to attend. Parties were also advised in the same letter that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the Application, which may involve making or refusing an eviction order. If parties do not attend the CMD this will not stop a decision or order being made by the tribunal if the tribunal considers that it has

sufficient information before it to do so and the procedure has been fair. The Respondent was given the opportunity to return written representations to the tribunal's offices by 24 July 2024.

8. The Application paperwork and notification of the date, time and place of the CMD was personally served on the Respondent by Sheriff Officers.
9. On 16 July 2024, the Respondent sent written representations to the tribunal's administration.

Case Management Discussion ("CMD"): 12 August 2024 at 1000 by teleconference

10. Mrs Laurie Fell, from the Applicant's Representative attended on behalf of the Applicant.
11. Miss Rugg, the Respondent attended the CMD.

Respondent's submissions

12. Miss Rugg does not oppose the Application seeking an order for possession. She said that she is still living in the Property. She said that when this all came about in September 2023, there was an eviction ban in place. The landlord told her at that time that she was selling the house. Miss Rugg asked the landlord for a Notice to Quit. Miss Rugg spoke to a legal representative at the West Lothian Council. They told her to remain in the in the Property. They know that there is a Case Management Discussion taking place today and Miss Rugg is intending to contact them with the outcome. Miss Rugg said that she is paying her rent monthly and that it is all up to date. She said that she lives in the Property with her one year old daughter. The local authority has said that as soon as she gets her eviction notice that they will look into temporary accommodation for her. She has chosen a number of areas and she has had to broaden her areas. She said that she and her child are both healthy and have no additional needs. She understands that if an order for possession is made that there is a 30 day appeal period and that she will need to move out of the Property within 30 days.

Applicant's Representative's submissions

13. Mrs Fell said that the Property was previously managed by another agent and that they took over the management of the Property on 16 October 2023. The Notice to Quit and Section 33 Notice were served by the previous agent on 21

September 2023. She said that the landlord wants to sell because of mortgage rates and financial reasons. There are no issues with the tenant. The landlord is in a situation in which she can no longer afford to rent out the Property. It is the only Property that the Applicant's Representative manages for her. The Property had an offer for sale but it fell through because there was a sitting tenant in it.

14. The tribunal makes the following findings-in-fact:

- 14.1. The Applicant is the registered proprietor of the Property.
- 14.2. There was a short assured tenancy between the parties for the initial period from 10 September 2017 to 9 September 2018.
- 14.3. Thereafter the tenancy continued by tacit relocation on a monthly basis and relocated until 9 December 2023.
- 14.4. The short assured tenancy reached its end on 9 December 2023, by service on behalf of the Applicant on the Respondent, on 21 September 2023, of a Notice to Quit, notifying the Respondent that the tenancy would reach its termination date as at 9 December 2023.
- 14.5. Tacit relocation is no longer operating;
- 14.6. No further contractual tenancy is for the time being in existence.
- 14.7. A Section 33 notice was served on behalf of the Applicant on the Respondent on 21 September 2023, notifying the Respondent that the Applicant required vacant possession as at 9 December 2023.
- 14.8. The Applicant has given to the Respondent at least two months' notice stating that she requires possession of the Property.
- 14.9. The Application to the tribunal was made on 8 January 2024.
- 14.10. The Respondents has no rent arrears.
- 14.11. The Respondent has a one year old daughter.
- 14.12. The Respondent wishes to leave the Property as she cannot afford to continue in private rented housing and wishes to seek a house from the local authority.

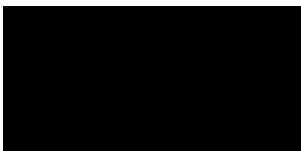
- 14.13. The Respondent has engaged with the local authority to request that they find alternative accommodation and the local authority will start a search when an order for possession is made.
- 14.14. The Applicant wishes to sell the Property for financial reasons as she can no longer afford to let it.
- 14.15. The Applicant agreed a sale of the Property but it fell through because there was a sitting tenant in it.
- 14.16. The Applicant intends to re-market the property for sale if the tribunal makes an order for possession.

15. Findings in Fact and Law

- 15.1. The tribunal is satisfied that the requirements of Section 33 of the 1988 Act are met.
- 15.2. The tribunal is satisfied that in all the circumstances and on the basis of the findings of fact, it is reasonable and to make an order for possession of 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.



**Ms .Susanne L M Tanner K.C.
Legal Member/Chair**

12 August 2024