



**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/24/0551**

**Re: Property at 11 Mansfield Avenue, Newtongrange, EH22 4SE (“the Property”)**

**Parties:**

**Mr Craig Miller, 32 Kippielaw walk, Dalkeith, EH22 4HS (“the Applicant”)**

**Ms Lynn Mabon, 11 Mansfield Avenue, Newtongrange, EH22 4SE (“the  
Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the order for recovery and possession should be  
granted in favour of the Applicant.**

**Background**

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The application was dated 5<sup>th</sup> February 2024. The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. On 27<sup>th</sup> June 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 5<sup>th</sup> August 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 18<sup>th</sup> July 2024.
3. On 28<sup>th</sup> June 2024, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 28<sup>th</sup> June 2024.
4. This case should be read in conjunction with FTSS/HPC/CV/0551.

## Case Management Discussion

5. The Tribunal held a Case Management Discussion (“CMD”) on 5<sup>th</sup> August 2024 at 2pm by teleconferencing. The Applicant was not present but was represented by Mr Ashley Purren, Pure Property Management Edinburgh LTD. The Respondent was present and represented herself.
6. Mr Purren said that the arrears had now risen to £10375. The last payment was on 1<sup>st</sup> February 2024 for £825 which is not the full amount of the rent. The Applicant is the Power of Attorney for the owner, Ms Cora Wilkie. Ms Wilkie is in a care home or assisted living facility. It is paid from the rent from this property. As there have been very few payments, which has caused there to be arrears on the rent account, it has caused Ms Wilkie financial hardship as this is now not paying her accommodation. Mr Purren said he is continuing to seek an order for eviction.
7. The Respondent said that she lives in the Property with her four children who are aged 8, 11, 14 and 16 years old. The two eldest are girls and the two youngest are boys. She has struggled financially being a single parent and being able to make all of the payments that she is required to do so. She has not sought any money advice. There have been some issues in the Property since March/April 2024 with a leaking radiator in her sons room which has meant that the Respondent has had to lift the carpet as it was wet and caused dampness. This is not the reason that she has not made payments that remains being due to financial pressures. She has spoken to her local authority housing department who are waiting to know the outcome of this CMD. She will initially be rehoused to a three bedroomed house but will be permanently rehoused to a four bedroomed house. She wants to make a payment plan to the pay the arrears. She works fulltime. She receives Universal Credit and Child Benefit for her children.
8. Mr Purran said that there was a payment offer made for £900 in January 2024. However, payments were not forthcoming. The Applicant would be willing to accept a reasonable payment offer but requires the eviction order so that the Property can be re-let and income from the Property be resumed. He noted that there has been issues of access to get essential certificates undertaken such as the EICR. Mr Purran noted that the Respondent owns half of another property and queried why she could not live in that property.
9. The Respondent said that she mainly works night shift which makes it difficult for her to be up to be there for repairs and other matters to be done when she has been working the night before. She said that she does own half a house with her ex partner. He lives in it now. It is a two bedroomed house which is too small for her family so would not be an option. The Respondent said that she was not opposing an order for eviction as the Property is not suitable for her.
10. The Tribunal considered it appropriate to grant an order for eviction particularly given the Respondent is not opposing an order being granted and that she is not able to sustain payments to the rent.

## Findings in Fact

11. The parties entered into a Short Assured Tenancy on 1<sup>st</sup> June 2017 with the commencement of the tenancy on the same date for 6 months and on a month to month basis thereafter. An AT5 was signed by both parties on the same date as the lease. The rent payments of £850 are due by the first day of each month.
12. The Respondent has accrued arrears amounting to £10375. She has not been able to pay her rent charge due to being stretched financially as a single parent of four children.
13. The Applicant is the Power of Attorney for the owner of the Property. The owner is in a care facility which has been paid by the rent payment from this property. The absence of the payment has had a significant effect upon her finances.
14. The Respondent does not oppose an order being granted. She has spoken to her local authority with regard to temporary housing.
15. There are no issues of reasonableness preventing the Tribunal from granting an order for eviction.

## Reasons for Decision

16. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted.

## Decision

17. The Applicant is entitled to an Order of for 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.**

# G Miller

5<sup>th</sup> August 2024

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Legal Member/Chair

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Date

