

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/EV/24/0543**

**Re: Property at 5 First Floor, Balmore Street, Dundee, DD4 6SX (“the Property”)**

**Parties:**

**Ms Pauline Torrance, Brian Torrance, Fiona Reid, 7/4 Sandport, Edinburgh, EH6 6PL; (“the Applicants”)**

**Mr Kevin Martin, Ms Theresa Benjamin or Martin, 5 First Floor, Balmore Street, Dundee, DD4 6SX (“the Respondents”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. By Lease dated 5<sup>th</sup> June 2017 the Applicants let the Property to the Respondents. Prior to the lease being signed a notice in terms of section 32 of the Housing (Scotland) Act 1988 – commonly referred to as an AT5 – was served upon and signed by the Respondents. The lease is, accordingly, a short assured tenancy.
2. Further short assured tenancies were thereafter entered into. Despite some of these coming into force after the commencement of the Private Housing (Tenancies) (Scotland) Act 2016 having regard to the saving provisions in the Private Housing (Tenancies) (Scotland) Act 2016 (Commencement No.3, Amendment, Saving Provision and Revocation)

Regulations 2017, the further tenancy agreements remained as short assured tenancies.

3. The Applicant served a notice to quit and a notice in terms of s33 of the 1988 Act upon the Respondents.
4. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
5. Proceedings were thereafter raised seeking an order for eviction.

## **THE CASE MANAGEMENT DISCUSSION**

6. The Applicants did not participate personally in the case management discussion but were represented by Ms Hazel Young of Rockford Properties. Both Respondents participated personally.
7. Ms Young confirmed that the Applicants wished an order for eviction. She explained the intention was to sell the Property.
8. The Respondents advised they had no objection to an eviction order being granted. Mr Martin intimated the eviction order was needed to provide to the local authority to assist in local authority housing accommodation being provided. It became clear, however, that Mr Martin has already vacated the premises and has secured alternative accommodation for himself. The Property remains occupied by Mrs Martin and the Respondents' 8-year-old daughter.
9. The Tribunal thereafter sought confirmation of Mrs Martin's position. She confirmed that she did not oppose the eviction order being granted. She confirmed she wishes an order to assist in securing alternative accommodation from the local authority. She has already obtained advice from Shelter and has already engaged with the local authority in that regard.
10. The Respondents did not provide any further information to suggest that the Tribunal should consider it unreasonable for an eviction order to be granted and, in the absence of such information and, indeed, with the consent of the Respondents, the Tribunal granted an order for eviction.

## **DECISION**

The Tribunal granted an order against the Respondents for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

Order not to be executed prior to 12 noon on 30 September 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.

# V.Crawford

23 August 2024

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Legal Member/Chair

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Date