



**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/24/2510

Property: 16 Kinnaird Crescent, Friockheim DD11 4ST ("Property")

Parties:

Kylie Hodge, 48 Station Road, Thornton KY1 4AX ("Applicant")

**Dymock Properties Ltd, Suite 8, Spalding House Business Centre, 90-92 Queen
Street, Dundee DD5 1AJ ("Applicant's Representative")**

Loanne Keilloh, 16 Kinnaird Crescent, Friockheim DD11 4ST ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Elaine Munroe (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 16 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 17 June 2008; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 14 February 2024 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 26 February 2024 and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003. 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 3 October 2024 the Applicant's Representative lodged a copy rent statement.

Case Management Discussion (“CMD”)

A CMD took place on 16 October 2024. The Applicant was represented by Neil Dymock of the Applicant’s Representative. The Respondent was in attendance.

The Respondent told the Tribunal that she was happy to leave the Property if she had the keys to a council house. She said she had been in touch with Angus Council who had told her there is a housing crisis. She said they would not take steps to assist her with alternative accommodation until an order for eviction was granted. She said that she had been assigned a housing officer. The Respondent told the Tribunal that she lives in the Property with her three children aged 20, 18 and 11. She said she works locally and is a full time carer for her grandmother who lives locally. The Respondent said that there are extensive repairs required to the Property. She said she wanted to leave the Property but needed time to pack up as she had been in the Property for a long time. She said she also needed time for the local authority to find her alternative accommodation.

Mr Dymock told the Tribunal that the Applicant requires to sell the Property as they are under extreme financial pressure. He said that the Applicant had been considering selling for some time and had engaged Mr Dymock to assist with ensuring the correct process was followed. Mr Dymock said that the Applicant required a date for possession of the Property that they could work towards and it may be that a delay in enforcement of 60 days would be an acceptable compromise. The Respondent said that a delay in enforcement of a possession order of 60 days would be helpful.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 17 June 2008.
2. The tenancy was for the period commencing 17 June 2008 to 16 June 2009 and month to month thereafter.
3. A Notice to Quit dated 14 February 2024 was served on the Respondent on 26 February 2024 stating that the tenancy would terminate on 16 May 2024.
4. A Notice in terms of Section 33 of the 1988 Act dated 14 February 2024 was served on the Respondent on 26 February 2024 stating that possession of the property was required on 16 May 2024.
5. The tenancy reached its *ish* on 16 May 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 Respondent wished to remove from the Property and obtain alternative accommodation via the local authority. Having considered the oral submissions of the Parties, the Tribunal determined that it was reasonable to issue an eviction order but to delay execution until 16 December 2024.

Decision

The Tribunal grants an Order for possession of the Property but to delay execution until 16 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.

Joan Devine

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Legal Member

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Date: 16 October 2024