



**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/24/1472

Re: Property at 34 Portree Avenue, Dundee, DD5 3EQ (“the Property”)

Parties:

Mr Thomas Martin, 3 Godfrey Street, Dundee, DD5 2QZ (“the Applicant”)

**Ms Louisa Cunningham, 34 Portree Avenue, Dundee, DD5 3EQ (“the
Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for eviction should be granted.**

1. On 30th March 2024 the Applicant lodged an Application with the Tribunal under Rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondents from the property.

2. Lodged with the application were: -
 - a. Short Assured Tenancy Agreement dated 19th November 2017 and initially running from 20th November 2017 to 20th May 2018 and monthly thereafter, and with monthly rent of £750;
 - b. AT5 Notice dated 19th November 2017;
 - c. Notice to Quit dated 27th April 2023 for 20th July 2023;
 - d. Section 33 Notice dated 27th April 2023 for 20th July 2023;
 - e. Certificate of Service;

- f. Section 11 Notice;
 - g. Rent Statement;
 - h. Written Statement of reasons for seeking eviction.
3. The Application was served on the Respondent by Sheriff Officers on 5th September 2024.

Case Management Discussion

4. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant was represented by his son, Donald Martin. The Respondent attended and represented herself.
5. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and also that it was reasonable for the Tribunal to grant the order.
6. Mr Martin sought an order for eviction in terms of sections 19 and 33 of the Housing (Scotland) Act 1988.
7. The Respondent said that she had been told that she needed to have an order from the Tribunal before the local authority would re-house her. She said that she appreciated that the Applicant wished to stop being a landlord, he had been a good landlord and had been very fair with her. The respondent had not taken any advice and was not aware of the process at the tribunal. After some discussion she said that she did not want to oppose the order being granted. Her concern was how quickly she would be rehoused.
8. The Tribunal discussed suspending the order for a period of time with the parties. Mr Martin was very reasonable and said that he would be happy with the order being granted, but suspended until 30th January 2025, in the hope that the local authority would act well before that in finding the Respondent accommodation. The Tribunal thanked Mr Martin for his reasonable and responsible attitude. The Respondent confirmed that she understood that she needed to continue paying rent until she vacated the property.

Findings in Fact

1. The parties entered into a Short Assured Tenancy Agreement in respect of the property;
2. The tenancy commenced on 30th April 2015, with the initial term being from 20th November 2017 to 20th May 2018, and monthly thereafter;
3. Notice To quit and Section 33 Notice were served timeously and correctly;
4. The Application was served on the Respondent by Sheriff Officer on 5th September 2024.

Reasons For Decision

5. The Tribunal were satisfied that the ground of eviction was established. It used to be mandatory to grant an eviction application on this ground, but Section 44 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022 states:

Assured tenancies: discretionary eviction grounds

(1) The Housing (Scotland) Act 1988 is modified as follows.

(2) In section 18 (orders for possession)—

(a) subsections (3) and (3A) are repealed,

(b) in subsection (4), for “Part II” substitute “Part I or II”,

(c) in subsection (6)(a), the words “or Ground 8” are repealed,

(d) in subsection (8), for “subsections (3A) and (4A)” substitute “subsection (4A)”.

(3) In section 19 (notice of proceedings for possession), subsection (5) is repealed.

(4) In section 20 (extended discretion of First-tier Tribunal in possession claims)—

(a) in subsection (1), for “Subject to subsection (6) below, the” substitute “The”,

(b) subsection (6) is repealed.

(5) In section 33(1) (recovery of possession on termination of a short assured tenancy)—

(a) in the opening words, for “shall” substitute “may”,

(b) after paragraph (b), the word “and” is repealed,

(c) after paragraph (d) insert “, and

“(e) that it is reasonable to make an order for possession.”.

(6) In schedule 5 (grounds for possession of houses let on assured tenancies)—

(a) in Part I, Ground 8 is repealed,

(b) the heading of Part I becomes “Certain grounds on which First-tier Tribunal may order possession”,

(c) the heading of Part II becomes “Further grounds on which First-tier Tribunal may order possession”.

6. The Tribunal was satisfied that it was reasonable to grant the eviction order as the Respondent was not opposing it, and the order was to be suspended until 30th January 2025.

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.

Alison Kelly

Legal Member/Chair

10th October 2024

Date