



**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/24/2471**

**Re: Property at 10 Arcon Avenue, Mossblown, Ayr, KA6 5BT (“the Property”)**

**Parties:**

**Mrs Carole Clark, Property Solutions Scotland, 38 Queen Street, Glasgow, G1 3DX (“the Applicant”)**

**Ms Elizabeth Oldham, 10 Arcon Avenue, Mossblown, Ayr, KA6 5BT (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

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

Introduction

1. This application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order.
2. Intimation of the application and of the Case Management Discussion (‘CMD’) was effected upon the respondent by Sheriff officers on 20 August 2024.
3. The hearing took place at 2pm on 18 September 2024 by teleconference. The applicant and her representative failed to attend the hearing. The respondent joined with her daughter for support.

Findings and Reasons

4. The property is 10 Arcon Avenue, Mossblown, Ayr KA6 5BT. The applicant is Mrs Carole Clark. She is the heritable proprietor and registered landlord of the property. The respondent is Ms Elizabeth Oldham who is the tenant.

5. The parties entered into a short assured tenancy which first commenced on 10 August 2011. An AT5 Notice under section 32 of the 1988 Act was served on the respondent prior to the creation of the tenancy. The tenancy was for an initial fixed period until and in terms of clause 1.4 has continued on a month to month basis thereafter.
6. On 5 March 2024 the applicant served upon the respondent a Notice to Quit. In the terms of the said Notice to Quit, the applicant gave notice to the respondent that she would require to remove from the property on or before 10 May 2024. Further, on 5 March 2024 the applicant served upon the respondent Notice under Section 33(1)(d) of the Housing (Scotland) Act 1988 stating that possession was required of the property as at 10 May 2024. A recorded delivery slip evidences the posting of these documents and there is a corresponding post office track and trace data document which discloses the respondent's signature confirming receipt on 5 March 2024.
7. The short assured tenancy between the parties has reached its end. Tacit relocation is not operating. No further contractual tenancy is in existence. The applicant has complied with the terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.
8. The tribunal considered the reasonableness of the eviction order being granted.
9. The applicant seeks to evict the respondent on the grounds that she intends to sell the let property. Evidence of the intended sale is provided in the form of a letter from the applicant's solicitor confirming instructions to sell.
10. The respondent is not opposed to the eviction application. She is 61 years of age. She lives alone in the two bedroom property. She has some health problems and is in receipt of benefit income. The property requires a number of significant repairs which is believed to be the reason for the proposed sale. It no longer meets her needs. She has already spoken to the council who advised that she must allow the tribunal process to conclude otherwise she would be deemed to have made herself homeless. She is considering housing options in both South (where she currently is) and East Ayrshire (to be nearer her daughter). She is up to date with her rental payments.
11. A section 11 notice under the Homelessness etc (Scotland) Act 2003 has been issued to South Ayrshire Council. In the event of an eviction order being made the local authority is under a statutory duty to make suitable alternative accommodation available.
12. The tribunal concluded that it was reasonable to grant the eviction order. The Respondent was keen to move on but she has been in the property for 13 years and the tribunal found it proportionate and reasonable to extend the period for implementation of the order from the minimum of 30 days to 2 months. The date specified is thus 18 November 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.**

Richard Mill

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**Legal Member/Chair**

**18 September 2024**

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**Date**