



**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/24/2542**

**Re: Property at 115 Ravenswood Rise, Livingston, EH54 6PG (“the Property”)**

**Parties:**

**Ms Julie Sibbald, 2 Almond View, Perth, PH1 1QQ (“the Applicant”)**

**Ms Karen Feechan, 115 Ravenswood Rise, Livingston, EH54 6PG (“the  
Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Elaine Munroe (Ordinary Member)**

**Decision (in absence of the Respondent)**

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

**Background**

- 1 By application to the Tribunal dated 3 June 2024 the Applicant sought an eviction order against the Respondents in respect of the Property under section 33 of the Housing (Scotland) Act 1988. In support of the application the Applicants provided the following documentation:-
  - (i) Short Assured Tenancy Agreement between the parties dated 20<sup>th</sup> October 2016 together with Form AT5;
  - (ii) Notice to Quit dated 1 April 2024 together with proof of service by Sheriff Officers on 28 March 2024;
  - (iii) Notice under section 33 of the Housing (Scotland) Act 1988 dated 28 March 2024 together with proof of service by Sheriff Officers on 28 March 2024;

- (iv) Notice under section 11 of the Homelessness (Scotland) Act 2003 to West Lothian Council together with proof of service by email;
  - (v) Copy letter from Knight Frank to the Applicant confirming their instructions to sell the property.
- 2 By Notice of Acceptance of Application dated 20 June 2024 a Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned and a copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.

### **Case Management Discussion**

- 3 The Case Management Discussion took place on 18 September 2024. The Applicant was present and represented by Ms Hamilton of Clarity Simplicity Limited. The Respondent was in attendance.
- 4 The Tribunal explained the purpose of the Case Management Discussion and the legal test and asked the parties for their submissions. For the avoidance of doubt the following is a summary of the submissions made and does not constitute a verbatim account of the discussion.
- 5 Ms Hamilton advised that the Applicant was seeking an eviction order. The tenancy between the parties was a short assured tenancy. The notice to quit had terminated the tenancy as at 1 June 2024. The Applicant had no option but to apply to the Tribunal. The Applicant had engaged a solicitor to sell the property and wished to free herself from her obligations as a landlord. The Applicant had purchased the property for herself in 2008 and did live there for a number of years but she had since moved on with her partner and was currently resident in Perth, Scotland.
- 6 Ms Feehan advised that the application paperwork was all relevant and correct. She understood that it was now the local authority's duty to help her out. She accepted the Applicant's position. She had been in touch with the local authority and had been given some housing points. The local authority had explained that the next step would be confirmation of her move-out date following the granting of an eviction order by the Tribunal which would help progress her homelessness application. She was waiting for the Tribunal to make their decision. In response to questions from the Tribunal Ms Feehan advised that she resided in the property with her adult daughter aged 20.
- 7 Ms Hamilton confirmed that she was aware the Applicant and Respondent had been in discussion, and that Ms Feehan was not opposing the making of an eviction order.

## Relevant Legislation

- 8 The legislation the Tribunal must apply in its determination of the application are the following provisions of the Housing (Scotland) Act 1988, as amended by the Coronavirus (Scotland) Act 2020, the Coronavirus (Scotland) Act 2020 (Eviction from Dwelling-houses) (Notice Periods) Modification Regulations 2020 and the Coronavirus (Extension and Expiry) (Scotland) Act 2021:-

**“33 Recovery of possession on termination of a short assured tenancy.**

*(1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal may make an order for possession of the house if the Tribunal is satisfied—*

*(a) that the short assured tenancy has reached its ish;*

*b) that tacit relocation is not operating; and*

*(c). . . . .*

*(d) that the landlord (or, where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house, and*

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

*(2) The period of notice to be given under subsection (1)(d) above shall be—*

*(i) if the terms of the tenancy provide, in relation to such notice, for a period of more than six months, that period;*

*(ii) in any other case, six months.*

*(3) A notice under paragraph (d) of subsection (1) above may be served before, at or after the termination of the tenancy to which it relates.*

*(4) Where the First-tier Tribunal makes an order for possession of a house by virtue of subsection (1) above, any statutory assured tenancy which has arisen as at that finish shall end (without further notice) on the day on which the order takes effect.*

*(5) For the avoidance of doubt, sections 18 and 19 do not apply for the purpose of a landlord seeking to recover possession of the house under this section.”*

## Findings in Fact and Law

- 9 The Applicant entered into a Short Assured Tenancy Agreement with the Respondent dated 20 October 2016, the term of which was 1 November 2016 to 1 May 2017 and monthly thereafter.
- 10 The Applicant served the Respondent with a Form AT5 prior to the signing of the Tenancy Agreement.

- 11 The tenancy between the parties was a short assured tenancy as defined by section 32 of the Housing (Scotland) Act 1988.
- 12 On 28 March 2024 the Applicant delivered to the Respondents a Notice under section 33 of the Housing (Scotland) Act, stating that the Applicant required the property back by 1 June 2024, and a Notice to Quit which sought to terminate the tenancy as at that date. The Notice to Quit was in the prescribed form. The Notices were served by Sheriff Officers
- 13 The Notice to Quit terminates the tenancy as at 1 June 2024 which is an ish date under the terms of the tenancy agreement.
- 14 The Applicant requires vacant possession of the property in order to sell the property and remove herself from the lettings market.
- 15 The Respondent does not oppose the making of an eviction order.
- 16 The Respondent has sought assistance from the local authority and the making of an eviction order would support the progress of her application for housing.
- 17 The Respondent resides with her daughter, aged 20.

### **Reasons for Decision**

- 18 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. The Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved.
- 19 The Tribunal was satisfied that the Respondent had been served with a valid Notice to Quit and Notice under section 33 of the Housing (Scotland) Act 1988, terminating the tenancy as at the ish date of 1 June 2024. The issue for the Tribunal to determine therefore was whether it was reasonable in all the circumstances to grant an eviction order.
- 20 The Tribunal accepted the Applicant's reason for terminating the tenancy, namely her intention to sell, and gave this significant weight in terms of her rights over the property. The Tribunal also had regard to the Respondent's personal circumstances, noting that she resided in the property with her adult daughter and had sought assistance from the local authority. The Respondent did not oppose the making of an eviction order, and was awaiting same in order to progress her application for housing with the local authority. There were no particular vulnerabilities in the household from what the Respondent had set

out in terms of her personal circumstances. This was also a relevant material consideration to which the Tribunal gave significant weight.

- 21 Accordingly having weighed up those factors that were relevant to the question of reasonableness the Tribunal concluded that the Applicant had a genuine and credible reason to seek recovery of the property, the Respondent was not opposing the application, and on that basis it would be reasonable to grant the eviction order sought.
- 22 The Tribunal therefore determined to make an eviction order. The decision of the Tribunal was unanimous.

### **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.**

# Ruth O'Hare

**18 September 2024**

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**Legal Member/Chair**

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**Date**