



**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/24/1988**

**Re: Property at 36A Gilbertfield Street, Glasgow, G33 3TG (“the Property”)**

**Parties:**

**Mr Brian Caplan, Office 2, Room 8, Kirkhill House, Broom Road East, Newton Mearns (“the Applicant”)**

**Ms Charlene Gallacher, 36A Gilbertfield Street, Glasgow, G33 3TG (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Nick Allan (Ordinary Member)**

**Decision**

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

1. On 1<sup>st</sup> May 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 27<sup>th</sup> April 2017 and initially running from 27<sup>th</sup> April 2009 to 26<sup>th</sup> October 2009, and with monthly rent of £525
  - b. AT5 Notice dated 27<sup>th</sup> April 2009;
  - c. Notice to Quit dated 31<sup>st</sup> October 2023 for 27<sup>th</sup> April 2024
  - d. Section 33 Notice dated 31<sup>st</sup> October 2023 for 27<sup>th</sup> April 2024
  - e. Proof of Service of 3 and 4
  - f. Section 11 Notice and proof of service;

3. The Application was served on the Respondent by Sheriff Officers on 20th September 2024.

### **Case Management Discussion**

4. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant was represented by Mr McMillan of Ecosse Estates Ltd. 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 McMillan sought an order for eviction in terms of sections 19 and 33 of the Housing (Scotland) Act 1988.
7. The Respondent said that she was not opposing the eviction order. She had applied for housing and been told that if she had an eviction order it would get her extra points on the list. She lives in the property with her two children and one year old grandson. She said that the landlord had always been great with her, there was no ill feeling and she knew she had to leave.

### **Findings in Fact**

- i. The parties entered into a Short Assured Tenancy Agreement in respect of the property;
- ii. The tenancy commenced on 27<sup>th</sup> April 2009, with the initial term being from 27<sup>th</sup> April 2009 to 26<sup>th</sup> October 2009, and monthly thereafter;
- iii. Notice To Quit and Section 33 Notice were served timeously and correctly;
- iv. The Application was served on the Respondent by Sheriff Officer on 20<sup>th</sup> September 2024;
- v. The Respondent has applied for alternative housing;
- vi. The Respondent does not oppose the order being granted.

### **Reasons For Decision**

8. The Tribunal were satisfied that the ground of eviction was established.

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”.*

9. The Tribunal now has to decide if it is reasonable to grant the eviction order. On the basis that the Respondent was not opposing the order being granted, had applied for alternative housing and said that she appreciated that she needed to leave the Tribunal considered that it was reasonable to grant the order.

## 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 J Kelly

24<sup>th</sup> October 2024

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Legal Member/Chair

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Date