



**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/24/3356

Re: Property at 3 Belmont Drive, Barrhead, G78 2HF (“the Property”)

Parties:

Ms Ellen McQuade, 1D Montfort Gate, Darnley Road, Barrhead, G78 1SZ (“the Applicant”)

Ms Claire Douglas, 3 Belmont Drive, Barrhead, G78 2HF (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

- Background
 1. An application was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondent upon termination of a short assured tenancy agreement.
- The Case Management Discussion
 2. A Case Management Discussion took place on 21 February 2025 by conference call. The Applicant was represented by Mr Cassidy of Mitchells Robertson, solicitors. The Respondent was personally present and represented herself. The application had been intimated on the Respondent by Sheriff Officer on 21 January 2025.
 3. The Applicant moved for the order for repossession to be granted as sought in the application. The parties had entered into a Short Assured Tenancy

Agreement which commenced 22 January 2013. The Applicant had served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”) on the Respondent. The Respondent had failed to remove from the Property and continued to reside therein. The Applicant is preparing to retire. The Applicant requires repossession of the Property in order to sell same and realise the equity contained within the Property in order to fund her pension in retirement. She has no other rental properties. There had been no notable issues with the tenant. The letting agent had reported that she was a good tenant. It was submitted that the Applicant had no opposition to the enforcement of the order being superseded to allow the Respondent further time to source alternative accommodation.

4. The Respondent submitted that she understands the Applicant’s position, but she has been unable to find any other affordable properties in the private sector suitable for her family to move into. She has been on the local social housing waiting list for the last 6 years, and has also applied to the local housing associations. The local authority has advised her that she cannot leave the Property until an order is granted by the tribunal, otherwise she could be deemed to have made herself voluntarily homeless. She has two children, a daughter aged 15 and a son aged 7. They both attend local schools. The Respondent’s daughter is undergoing an autism assessment.

- Findings in Fact

5. The Tribunal made the following findings in fact:

- (i) The parties entered into a Short Assured Tenancy Agreement (“the Agreement”) which commenced 22 January 2013. The Agreement stated that the start date was 22 January 2013 and the end date was 22 July 2013. Thereafter, if the Agreement is not brought to an end by either party it will run on a bi-monthly basis until ended by either party;
- (ii) A Notice to Quit and notice under section 33 of the 1988 Act were served on the Respondent on 19 April 2024 by sheriff officer;
- (iii) The Notice to Quit and notice under section 33 of the 1988 Act required the Respondent to remove from the Property by 22 July 2024;
- (iv) The Respondent has failed to remove from the Property and continued to reside therein.

- Reasons for Decision

6. The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met: namely that the tenancy had reached its finish; tacit relocation was not operating; a notice had been served in terms of that section giving at least 2 months’ notice; and it is reasonable to grant the order. Accordingly, the Applicant was entitled to the Order for Repossession as sought. The tribunal noted that the Applicant had no other rental properties and, in preparation for her retirement, required to sell the Property in order to realise the equity within it. The Applicant was agreeable to the enforcement date of the order being delayed allowing the Respondent more time to arrange alternative accommodation.

7. It was noted that no defence was being stated to the application, but that the Respondent's daughter was undergoing an autism assessment and that both children attend the local school. The Respondent had already consulted with the local authority who had advised her as to her housing position, and it was hoped that by providing further time to the Respondent, this would assist her in being able to work with the local authority or local housing associations, to source alternative housing prior to the order becoming enforceable.
- Decision
8. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988, with enforcement of same to take place no earlier than 1 May 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.



Legal Member/Chair

Date: 21 February 2025