

Housing and Property Chamber
First-tier Tribunal for Scotland



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 (Act)

Chamber Ref: FTS/HPC/EV/24/2675

Re: Property at 39/5 Parkgrove Terrace, Edinburgh, EH4 7NN (“the Property”)

Parties:

Mrs Jude Walsh, 7a Barnton Avenue, Edinburgh, EH4 6AW (“the Applicant”)

Miss Jenna Johnson, 39/5 Parkgrove Terrace, Edinburgh, EH4 7NN (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 12 June 2024;
2. AT5 and SAT commencing 30 November 2017;
3. Notice to Quit dated 11 December 2023;
4. Section 33 Notice dated 11 December 2023;
5. Written confirmation of personal service of Notice to Quit and Section 33 Notice on 11 December 2023;
6. Section 11 Notice and email serving on local authority on 5 September 2024;
7. Sheriff Officer certificate of service of CMD Notification on 18 February 2025.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 2 April 2025. The Applicant did not participate but was represented by her Letting Agent. The Respondent did not participate and was not represented. The Tribunal delayed the start of the CMD to see if the Respondent would participate but she did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that she should attend and the Tribunal could determine the matter in absence if she did not.

The Applicant's Letting Agent informed the Tribunal:

1. The Applicant only rented this Property. She worked part time.
2. The Applicant has been receiving complaints from neighbours about the Respondent and her family that all live in the flat on a regular basis for the last 2 years. The complaints comprise of noise issues including heated exchanges between the residents in 39/5 Parkgrove Terrace which have resulted in the police attending on several occasions. There have also been complaints of a dog barking all day, items being thrown out of the window on a daily basis into a neighbouring gardens such as rubbish, raw and cooked food waste, cigarette butts. It has also been reported that the neighbours suspect drugs are being sold from the Property and that there are groups of youths waiting outside the Property to buy drugs.
3. A dirt motorbike is often driven through the stair causing noise disturbances and the Applicant has a very high concern for the safety of the other residents in the building.
4. The Respondent is currently in rent arrears to the sum of £6,751.00. The rent was paid regularly, although late sometimes up until January 2024. However, from January 2024 to around August 2024 the rent was only paid in part and always late. Since August 2024 only one payment of £400 was made, this was in October 2024 and no other payments have been received since. A rent statement has been provided to show exact dates of payments made by the tenant and the arrears that have been increasing month on month.
5. The Applicant is being severely financially impacted by the fact that they are having to continue to pay mortgage payments which have increased recently due to an increase in interest rates and even more so now that the rent payments are not being made. The Applicant hopes to end the lease so that she could sell the Property. The delay in the Respondent moving out of the Property is having a massive impact on the Applicant's life and their financial security. The neighbours are also very badly impacted by the behaviour. It is causing everyone that lives nearby stress and upset on a very regular basis.
6. The Respondent lived in the Property with her two teenage children aged around 16 and 18 and a young child less than 2. She was in touch with the local authority

regarding housing and did not oppose the application. Her partner sometimes lived in the Property with her.

Decision and Reasons

The Tribunal considered the oral and documentary evidence. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a SAT commencing 30 November 2017;
2. An AT5 had been served prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served on 11 December 2023;
4. Section 11 Notice had been served on the local authority;
5. The SAT had reached its term and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicant had given the Respondent notice that she required possession;
9. The Respondent was in considerable rent arrears in the sum of £6,751.00;
10. The Applicant has received numerous complaints from the neighbours about the Respondent's use of and conduct within the Property;
11. The Applicant is being severely financially impacted by the fact that she is having to continue to pay mortgage payments which have increased recently due to an increase in interest rates and even more so now that the rent payments are not being made. The Applicant hopes to end the lease so that she could sell the Property. The delay in the Respondent moving out of the Property is having a massive impact on the Applicant's life and their financial security. The neighbours are also very badly impacted by the behaviour;
12. The Respondent lived in the Property with her two teenage children aged around 16 and 18 and a young child less than 2. She was in touch with the local authority regarding housing and did not oppose the application. Her partner sometimes lived in the Property with her.

The Tribunal considered all of the evidence and submissions.

The Tribunal were satisfied that Rule 66 had been complied with.

The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Respondent was in considerable rent arrears in the sum of £6,751.00; the Applicant has received numerous complaints from the neighbours about the Respondent's use of and conduct within the Property; the Applicant is being severely financially impacted by the fact that she is having to continue to pay mortgage payments which have increased recently due to an increase in interest rates and the rent payments not being made. The Applicant hopes to end the lease so that she could sell the Property. The delay in the Respondent moving out of the Property is having a massive impact on the Applicant's life and their financial security. The neighbours are also very badly impacted by the behaviour.

The Tribunal granted the application for eviction and recovery of possession. The Tribunal did not require to hear any further evidence.

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.

Alan Strain

2 April 2025

Legal Member/Chair

Date