

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18(1) of the Housing (Scotland) Act 1988**

**Chamber Ref: FTS/HPC/EV/24/3267**

**Re: Property at 73 High Parksail, Erskine, PA8 7HY (“the Property”)**

**Parties:**

**Ms Judith Henderson, 59 Middlepenny Road, Langbank, PA14 6XF (“the Applicant”), and**

**Ritehome Ltd, 350 Glasgow Harbour Terraces, Glasgow, G11 6EG (the Applicant’s Representative”) and**

**Miss Deborah Gallacher, residing at 73 High Parksail Erskine, PA8 7HY (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**G Darroch - Ordinary Member**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:**

**Background**

1. This is an Application brought in terms of Rule 66 (Application for order for possession upon termination of a short-assured tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”).

2. The Applicant, Ms Henderson, and her Representative Ritehome Ltd, had provided the Tribunal, in the Application, with copies of the parties' short assured tenancy agreement, Form AT5, Notice to Quit and Sections 33 and 11 Notices with relevant Executions of Service. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988 ("the 1988 Act"), and the procedures set out in the Act had been correctly followed and applied.
3. The Respondent, Miss Gallacher, had been validly served by Sheriff Officers with the Application papers, Guidance Notes and Notification of the CMD from the Tribunal on 7<sup>th</sup> March 2025, and the Certificate of Service was produced.

### **Case Management Discussion on 15<sup>th</sup> April 2025**

4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 10.00am on 15<sup>th</sup> April 2025. Ms Henderson's Representative's Ms L. Whittle attended. Miss Gallacher did not attend and there was no explanation for her absence.
5. Ms Whittle referred to the Application papers. She stated that on Friday 11<sup>th</sup> April 2025 the outstanding rent owing by Miss Gallacher was in the sum of £9,926.38. She said that Miss Gallacher has not been responding to her office's e-mails and text messages. Ms Whittle stated that when her colleagues had tried to inspect the Property in October 2024 Miss Gallacher was not present. When they attended to inspect on 18<sup>th</sup> December 2024 Miss Gallacher had just woken up and stated that she was going to work. In the circumstances Ms Whittle's colleagues did not consider it appropriate to inspect the Property. At that time Miss Gallacher also stated that she had applied to various third parties for an alternative tenancy. Ms Whittle said that her office's last communication with Miss Gallacher was on 18<sup>th</sup> December 2024. She stated that she understood that Miss Gallacher was residing in the Property with three children, a son in their mid to late teens and two younger children. She stated that she was not aware of Miss Gallacher or her children having any health issues. Ms Whittle said that she had no information regarding Miss Gallacher's entitlement to Universal Credit Housing element assistance. She stated that she had tried to submit an application for direct payment of rent to Universal Credit, on behalf of Ms Henderson, but this was not allowed to be processed and the Department for Work and Pensions did not give any reason why, due to GDPR. Ms Whittle said that in all the circumstances, in particular the substantial amount of rent arrears now owing, Ms Henderson wishes her Application to be granted, and to recover the Property, as soon as possible.

### **Statement of Reasons**

6. In terms of Section 33 of the 1988 Act, the Tribunal shall make an order for possession of a house let on a tenancy if:
  - (a) the short assured tenancy has reached its ish;
  - (b) tacit relocation is not operating;

- (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
- (d) the landlord has given to the tenant notice stating that he requires possession of the house.

- 7. The Tribunal considered all of the Application papers, including the parties' short assured tenancy agreement and the Form AT5 and Notice to Quit, which had been served on Miss Gallacher on 2<sup>nd</sup> May 2024, as well as the submission of Ms Whittle.
- 8. Miss Gallacher had not lodged representations with the Tribunal regarding the Application and, in particular, the reasonableness of the grant of an eviction order. Miss Gallacher had not attended the CMD to provide any evidence, and/or make any submission, to oppose and contradict the basis for the order sought by Ms Henderson.
- 9. The Tribunal therefore finds in fact that the parties' tenancy agreement has been terminated and Ms Henderson has given appropriate notice to Miss Gallacher that she requires to recover possession of the Property as a result of her service of the appropriate documentation on Miss Gallacher. The Tribunal finds in law that the criteria in Section 33 of the 1988 Act have been satisfied and determines that it is reasonable that an eviction order be granted

10. Accordingly, the Tribunal grants an eviction order.

### **Decision**

- 11. In the circumstances, the Tribunal makes an order for possession of the Property as sought in this Application.

### **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.**

**G McWilliams**

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**Tribunal Legal Member**

**15<sup>th</sup> April 2025**

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**Date**

