



**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/24/5104

Property: 21 Ardgour Parade, Carfin ML1 4HL ("Property")

Parties:

**Kathryn Brooke and Simon Brooke, 34 Springfield, Elstead, Surrey GU8 6EG
("Applicant")**

**TC Young, Solicitors, 7 West George Street, Glasgow G2 1BA ("Applicant's
Representative")**

Linda Harkison, 21 Ardgour Parade, Carfin ML1 4HL ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Ahsan Khan (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
("Tribunal") determined that an order for possession of the Property should be
made.**

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement dated 10 May 2017; AT5 dated 10 May 2017; Notice to Quit dated 3 May 2024 and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") dated 3 May 2024, both addressed to the Respondent; sheriff officer certificate of service of the Notice to Quit and section 33 notice on 3 May 2024; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 5 November 2024 and sheriff officer execution of service confirming service of the application on the Respondent on 11 March 2025.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal by conference call on 23 May 2025. The Applicant was represented by Kirstie Donnelly of the Applicant's Representative. There was no appearance by or on behalf of the Respondent.

The Tribunal noted that the Application included a submission regarding the question of reasonableness in which the Applicant's Representative explained that the Applicant had purchased the Property as an investment and now wished to sell the Property as the First Named Applicant has retired and the Second Named Applicant is approaching retirement. Further, the Applicant's Representative had explained in the submission that the First Named Applicant experiences a number of long term health issues.

Ms Donnelly told the Tribunal that there had been no recent contact with the Respondent whom she believes to be aged in her early sixties. Ms Donnelly said that the Respondent had not allowed access for property inspections and the Applicant was concerned that they could therefore not comply with their obligations as landlords. She said that the Respondent lives in the Property alone. She said there are no rent arrears.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short assured tenancy agreement dated 10 May 2017.
2. The tenancy was for the period 12 May 2017 to 13 November 2017 and month to month thereafter.
3. A Notice to Quit dated 3 May 2024 was served on the Respondent on 3 May 2024 stating that the tenancy would terminate on 13 July 2024.
4. A Notice in terms of Section 33 of the 1988 Act dated 3 May 2024 was served on the Respondent on 3 May 2024 stating that possession of the property was required on 13 July 2024.
5. The tenancy reached its *ish* on 13 July 2024 and is not continuing by tacit relocation.
6. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy and that a Section 33 Notice and Notice to Quit had been served on the Respondent giving two months' notice that the Applicant required possession of the Property.

Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to grant and order for possession of the Property.

Decision

The Tribunal grants an Order for possession of the Property.

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.

J Devine

Legal Member

Date: 23 May 2025