



**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/24/4287**

**Re: Property at 52 Bankhall Street, Flat 1/02, Govanhill, G42 8SW (“the Property”)**

**Parties:**

**Delmonte Properties, Mill House, Brig O'Turk, Callander, FK17 8HT (“the Applicant”)**

**Ms Lea-Anne McGrain, 52 Bankhall Street, Flat 1/02, Govanhill, G42 8SW (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (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 order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. On 22<sup>nd</sup> February 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 8<sup>th</sup> April 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 15<sup>th</sup> March 2025.
3. On 26<sup>th</sup> February 2025, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 26<sup>th</sup> February 2025.

### Case Management Discussion

4. The Tribunal held a Case Management Discussion ("CMD") on 8<sup>th</sup> April 2025 at 10am by teleconferencing. The Applicant was represented by Mr Mervyn Delmonte from Delmonte Properties. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
5. Mr Delmonte confirmed that he was still seeking an order for eviction. He said that there has been a lot of concerns about wide ranging antisocial behaviour. He said that in addition to that there has been no rent paid to him since 16<sup>th</sup> January 2023. The Respondent should pay weekly in arrears so this amount was to pay up to and including 16<sup>th</sup> January 2023. He does not consider that she has been in the Property for some time. Housing Benefit has stopped which he believes is due to this reason. However, he cannot be sure that she has not had access to the Property since the Housing Benefit stopped. The Tribunal found there to be no reason to doubt that the notices had not been served correctly.
6. Mr Delmonte said that he had inherited the property letting business from his father. Initially there were 28 properties. He has sold 10 and intends to sell the remaining 18 as he does not wish to continue to be a landlord. Once he has vacant possession of this property he will sell it.
7. While under most circumstances the Tribunal would not doubt the service by sheriff officers but the fact the Applicant had specifically said that he did not consider that the Respondent had been in the Property this year gave the Tribunal concern. The Tribunal considered it in the interests of justice to continue the CMD to a new date to allow for service by advertisement to take place. The Applicant will need to lodge a rent statement. A direction will be issued.
8. The CMD was continued to a further date to allow the case papers to be served by SBA upon the Respondent.
9. On 15<sup>th</sup> April 2025 the Applicant emailed the Housing and Property Chamber lodging a full rent statement and correspondence from Police Scotland regarding the Respondent. This was in response to the direction issued by the Tribunal.
10. Service by Advertisement was undertaken upon the Respondent from 28<sup>th</sup> August 2025.

### The Continued CMD

11. The Tribunal held a Case Management Discussion ("CMD") on 13<sup>th</sup> October 2025 at 10am by teleconferencing. The Applicant was represented by Mr Mervyn Delmonte from Delmonte Properties. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules.

12. The Applicant said that there have been no further payments or correspondence since the last CMD. He now believes that the Property is empty. It is a first floor flat so he cannot look through the windows to see. He has passed it many times as he works near. The curtains have not changed position and there have never been lights on. There has been nothing further from the Police. The Applicant said that he now wants his property back so that he can sell it.
13. The Tribunal was satisfied that it was reasonable to grant an order for eviction.

#### Findings in fact and reasons for decision

14. A Short Assured Tenancy Agreement commenced 29<sup>th</sup> November 2016. The AT5 was signed on the same date.
15. The Respondent persistently failed to pay her rent charge of £360 per month. This has increased to £456 per month. The rent payments are due to be paid in advance each month.
16. The Respondent has not made payment to her rent charge since January 2023.
17. The arrears to 10<sup>th</sup> March 2025 total £12313.20.
18. There are no known issues of reasonableness to prevent an order for eviction from being granted.

#### Decision

19. The Applicant is entitled to an order for eviction.

#### **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.**

Gabrielle Miller

**13th October 2025**

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**Legal Member/Chair**

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**Date**