



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/25/3526**

**Re: Property at 30 Corserine Bank, Irvine, KA11 1LH (“the Property”)**

**Parties:**

**RJSD Property Ltd, The Gables, 2 Corsehill Road, Ayr, KA7 2ST (“the Applicant”)**

**Miss Natalie Murphy, 30 Corserine Bank, Irvine, KA11 1LH (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 30 Corserine Bank, Irvine, KA11 1LH under Section 33 of the Housing (Scotland) Act 1988 be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

**Background**

1. This is an action for recovery of possession of the Property raised in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a short assured tenancy agreement dated 29 June 2017 and commencing 29 June 2017 between

the Applicant and the Respondent, an AT5 dated 19 June 2017, a Guarantor Agreement dated 22 June 2017, an email to the Respondent dated 7 January 2025, a Notice to Quit and Section 33 Notice dated 15 January 2025, a Sheriff Officer's Execution of Service dated 27 January 2025, a rent statement showing arrears of £1775.09 and a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 to North Ayrshire Council dated 18 August 2025.

3. On 29 August 2025, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 16 December 2025, the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 9 February 2026. The Respondent required to lodge written submissions by 6 January 2026. This paperwork was served on the Respondent by Andrew Richardson, Sheriff Officer, Glasgow on 18 December 2025 and the Execution of Service was received by the Tribunal administration.
5. On 15 January 2026 the Applicant's solicitor enclosed a rent statement showing arrears of £1725.64. On 29 January 2026 the Applicant's solicitor sent a further rent statement showing arrears of £1755.76.
6. On 30 January 2026 the Respondent's representative Mr Meek from CHAP (Confidential Helpful Advice Provider) emailed the Tribunal to advise he had discussed the matter with the Respondent who did not oppose the application. He went onto explain the Respondent accepted the reason for the eviction order, the arrears balance and understood the consequences of a payment order being granted. He further explained that as the Respondent was relying on the local authority to offer accommodation, she requested that if the Tribunal were minded to grant an eviction order that it be superceded by two months to allow the local authority more time to source a suitable tenancy for her and her two children.

### **Case Management Discussion**

7. The Tribunal proceeded with the CMD on 9 February 2026 by way of teleconference. The Applicant was represented by Miss Archibald from Wallace Hodge, Solicitors. The Respondent was represented by Ms Gibson from CHAP. The case was heard with an application for recovery of rent arrears under reference FTS/HPC/CV/25/3527.

8. The Tribunal had before it the short assured tenancy agreement between the Applicant and the Respondent, the AT5 dated 19 June 2017, the Guarantor Agreement dated 22 June 2017, the email to the Respondent dated 7 January 2025, the Notice to Quit and Section 33 Notice dated 15 January 2025 with Sheriff Officer's Execution of Service dated 27 January 2025, the rent statements and the Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 to North Ayrshire Council dated 18 August 2025. The Tribunal considered the terms of these documents.
9. The Tribunal explained it had had an opportunity of considering the Application and was satisfied that the necessary legal requirements had been met. The Tribunal asked Ms Gibson to confirm whether it was still the Respondent's position that she did not oppose the application. Ms Gibson confirmed there was no opposition to the application. That being the case the Tribunal asked Ms Archibald to make her submissions on reasonableness.
10. Ms Archibald submitted the Property was a three bedroomed mid terraced property worth about £110 000. The Respondent was the first and only tenant at the Property. The Applicant company was a married couple who had two children. They had a number of properties they let out. The rental income was their only income. There was a mortgage on the Property which was not getting covered. From the start of the tenancy with the Respondent payments had been sporadic. This was affecting their ability to provide for their children. Due to the increase in the cost of living and arrears, they no longer had any appetite to be landlords and were intending to sell their portfolios. The rent had increased since 2017. Current arrears were £1755.76. There was no hostility with the Respondent, but the Applicant was not aware as to why rent had not been paid.
11. Ms Gibson confirmed the arrears were accepted. In answering questions from the Tribunal Ms Gibson confirmed the Respondent had two daughters aged 16 and 8 years who attended local schools. CHAP were assisting the Respondent who had been referred to the Housing Assistance Team at North Ayrshire Council who had reviewed the Respondent's housing options. The Respondent was unfit for work and had poor mental health. In the circumstances Ms Gibson submitted that if the Tribunal were to grant the order for eviction that that be delayed by two months to allow the local authority time to find a suitable property for the Respondent.

### **Reasons for Decision**

12. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the oral

submissions made by Ms Archibald and Ms Gibson at the CMD. The Tribunal concluded that the Applicant was entitled to seek repossession of the Property under Section 33 of the Housing (Scotland) Act 1988. There was a properly constituted Short Assured Tenancy with the Respondent. The Tribunal was satisfied that the statutory provisions of Section 33 of the Housing (Scotland) Act 1988 had been met namely that the Short Assured Tenancy had reached its term (termination date); the Notice to Quit brought the contractual Short Assured Tenancy to an end, and that the Applicant had given the Respondent notice in terms of Section 33(1)(d) of the Housing (Scotland) Act 1988 stating that possession of the Property was required by 30 March 2025.

13. The terms of Section 33 of the Housing (Scotland) Act 1988 would normally entitle the Applicant to a right of mandatory repossession of the Property. In terms of Schedule 1, paragraph 3 (4) of the Coronavirus (Scotland) Act 2020 the Applicant also has to satisfy the Tribunal that it is reasonable to evict. In determining whether it is reasonable to grant the order the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal gave weight to the Respondent being in arrears. The Tribunal also considered the fact the Respondent did not oppose the Application and that she had been linked up to the Housing Assistance Team at North Ayrshire Council who were assisting her. Although the Tribunal gave some weight to the fact the Respondent had two children living with her, that did not outweigh the fact she had arrears which she was unfortunately not in a position to clear. The Tribunal gave some weight to the fact that the Applicant was suffering financial hardship and wanted to sell the Property which they were entitled to do. The balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order.

14. In the circumstances the Tribunal considered that in terms of Section 33 of the Housing (Scotland) Act 1988 as amended it was reasonable to grant an eviction order.

### **Decision**

15. The Tribunal granted an order for repossession, superceded by two months. The decision of the Tribunal was unanimous.

### **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.

9 February 2026

**Shirley Evans**

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**Legal Member**

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**Date**