



**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/25/3514**

**Re: Property at 61 Woodhall Place, Coatbridge, ML5 5BZ (“the Property”)**

**Parties:**

**Mrs Elizabeth Miller, Mr Raymond Miller, 45 Clagan Road, Claudy, Londonderry, BT47 4DB (“the Applicant”)**

**Ms Martha Sweeney, 61 Woodhall Place, Coatbridge, ML5 5BZ (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Eileen Shand (Ordinary Member)**

**Decision**

**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. The Order is superseded until 20<sup>th</sup> April 2026.**

**Background**

1. An application was received by the Housing and Property Chamber dated 15<sup>th</sup> August 2025. The application was submitted under Rule 66 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. On 8<sup>th</sup> January 2026, all parties were written to with the date for the Case Management Discussion (“CMD”) of 19<sup>th</sup> February 2026 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 29<sup>th</sup> January 2026.

3. On 12<sup>th</sup> January 2026, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by leaving in the hands of a household member. This was evidenced by Certificate of Intimation dated 12<sup>th</sup> January 2026.
4. The case was conjoined with case FTS/HPC/CV/25/5185

### The Case Management Discussion

5. A CMD was held on 19<sup>th</sup> February 2026 at 2pm by teleconferencing. The Applicants were not present but were represented by Mr Adam Gardiner, Solicitor, Lindsays. The Respondent was present and represented herself.
6. Mr Gardiner said that the Applicants were still seeking an order for eviction. Their position remains as per the affidavit lodged. This is that they need to sell the Property as the interest only mortgage term has ended. There are arrears on the Property so it would be greatly devalued if it was sold with the Respondent as a sitting tenant. Mr Gardiner said that he noted the Respondent's position from her submission that she requires extra time and would like the order to be delayed. The Applicants would not object to the Order being superseded until 20<sup>th</sup> April 2026.
7. The Respondent confirmed that she was not opposed to an order being granted. She has been informed by her local authority that she will not be rehoused until such time as an order has been granted against her. She said that she was content with the Order not being enforced before 20<sup>th</sup> April 2026. The Tribunal noted that she could leave the Property before if she was rehoused by the local authority before 20<sup>th</sup> April 2026. Mr Gardiner confirmed that there would be no requirement for a notice period should the Respondent be rehoused before 20<sup>th</sup> April 2026. She should contact either Mr Gardiner or the Applicants as soon as she is aware of a moving date for her new property.
8. The Respondent said that she is currently in the Property with her two adult sons, her adult daughter and her daughter's three children. Her daughter has applied for housing separately.
9. Mr Gardiner said that the current arrears are £3046.08. The Respondent said that this is because her ESA stopped in August 2025 when she was moved onto Universal Credit. She needed more paperwork to get the housing benefit and council tax elements. The application form was online and only allowed 5 pages of documents to be uploaded when she had 10 pages to be uploaded. She has an appointment to go to Job Centre Plus on Tuesday 24<sup>th</sup> February 2026 to hand in all the documents. She is hoping to get a full backdate. Mr Gardiner said that there have been no applications for direct payments of Universal Credit as it was not guaranteed. This position may be reconsidered given that there may be an award in place soon.

### Findings and reason for decision

10. The parties entered into a Short Assured Tenancy on 20<sup>th</sup> November 2007 until 21<sup>st</sup> May 2008. An AT5 was signed by both parties on the same date as the lease. The rent payments of £500 are due on the twentieth day of each month.
11. The Respondent persistently failed to pay her rent charge of £500 per month. This is due to her Employment Support Allowance being changed to Universal Credit which caused her benefit entitlement to stop. The Respondent is investigating this and pursuing a backdate.
12. The Respondent is not opposed to the Order being granted. She is to be rehoused by her local authority once an order has been granted.
13. There are no issues of reasonableness that prevent an order from being granted.
14. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted.

### Decision

15. The Applicant is entitled to an Order of for recovery of possession.

### **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**

**19<sup>th</sup> February 2026**

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**Legal Member/Chair**

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**Date**