



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/EV/22/1548**

**Re: Property at 45 Harvie Gardens, Armadale, West Lothian, EH48 2GW (“the Property”)**

**Parties:**

**Mr Douglas Cameron, Josephine Evelyn Cameron, 20 Allison Place, Kirliston, EH29 9BH; 20 Allison Place, Kirkliston (“the Applicant”)**

**Ms Sandra Miller, 45 Harvie Gardens, Armadale, West Lothian, EH48 2GW (“the Respondent”)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. By lease dated 17 June 2013 the Applicants let the property to the Respondent;
2. Prior to the lease being signed a Notice under s32 of the Housing (Scotland) Act 1988 (hereinafter referred to as “the 1988 Act”) – commonly referred to as a Form AT5 – was served upon and signed by the Respondent. The lease is, therefore, a Short Assured Tenancy in terms of the 1988 Act;
3. A Notice to Quit dated 11 November 2021 was served upon the Respondent on 16 November 2021;
4. A Notice in terms of s33 of the 1988 Act was served upon the Respondent on 16 November 2021;

5. Both the Notice to Quit and the Notice in terms of s33 of the 1988 Act required vacant possession of the property as at 17 May 2022;
6. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to West Lothian Council;
7. On 23 May 2022 the Applicants presented an Application to the Tribunal seeking an Order for the eviction of the Respondent;

## **THE CASE MANAGEMENT DISCUSSION**

8. The Applicants did not participate in the Case Management Discussion but were represented by Mr Adrian Kay of Almond Valley Property Centre. A Miss Shirley Hepworth attended as an observer;
9. The Respondent did not participate in the Case Management Discussion. She had previously forwarded an email to the Tribunal advising that she was aware of the case on 7 October 2022 at 10am and did not intend to participate in the proceedings. The email stated "I don't wish to take part and happy to let it go ahead, thank you";
10. Despite the absence of the Respondent, the Tribunal made enquiry in relation to personal circumstances of the Respondent. Mr Kay, on behalf of the Applicants, advised that the Respondent resided at the property with her four children. While the Respondent was not participating in the proceedings today, she had spoken to him previously and advised that she was wishing an eviction Order as West Lothian Council required that before they would be able to rehouse her. Mr Kay advised that that was something he considered to be a common problem in the West Lothian Council area with, in his experience, many tenants advising that they have received the same advice from West Lothian Council - i.e. they required to remain in the property until an eviction Order is granted thereafter Local Authority will assist in rehousing;

## **FINDINGS IN FACT**

11. The Tribunal found the following facts to be established;
  - a) By lease dated 17 June 2013 the Applicants let the property to the Respondent;
  - b) Prior to the lease being signed a Notice under s32 of the 1988 Act was served upon and signed by the Respondent. The lease is, therefore, a Short Assured Tenancy in terms of the 1988 Act;
  - c) A Notice to Quit dated 11 November 2021 was served upon the Respondent on 16 November 2021;

- d) A Notice in terms of s33 of the 1988 Act was served upon the Respondent on 16 November 2021;
- e) Both the Notice to Quit and the Notice in terms of s33 of the 1988 Act required vacant possession of the property as at 17 May 2022;
- f) A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to West Lothian Council;
- g) On 23 May 2022 the Applicants presented an Application to the Tribunal seeking an Order for the eviction of the Respondent;
- h) It is reasonable that an order for eviction be granted;

## **REASONS FOR DECISION**

12. In relation to the legal requirements to enable the Short Assured Tenancy to be terminated, the Applicants had complied with those. A Notice to Quit had been served. A Notice in terms of s33 of the 1988 Act had been served. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 had been intimated to the Local Authority. As a matter of law, therefore, subject to the Tribunal considering it to be reasonable, an eviction Order ought to be made;

13. In relation to the matter of reasonableness, while the Tribunal did make enquiry, and while it appears to be the case that there are four children within the household, the Tribunal also had information to the effect that, firstly, the Respondent was not participating with the proceedings and was “happy to let it go ahead” and, secondly, Mr Kay that he had spoken to the Respondent personally and she had advised that she was wishing an eviction Order to assist in the rehousing process. In the circumstances, the Tribunal considered that it was reasonable to grant the Order requested by the Applicants.

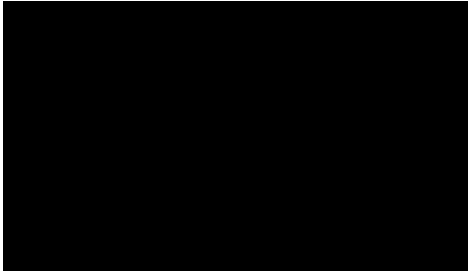
## **DECISION**

The Tribunal grants order to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings forth and from the Property at 45 Harvie Gardens, Armadale, West Lothian, EH48 2GW 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.

Order not to be executed prior to 12 noon on 14<sup>th</sup> November 2022

## **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.**



**7<sup>th</sup> October 2022**

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**Date**