

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18(1) of the Housing (Scotland) Act 1988

**Chamber Ref:** FTS/HPC/EV/22/4033

**Property:** 78 Blink O’Forth, Prestonpans EH32 9GA (“the property”)

**Parties:** Mr William Courtney, Mrs Julie Courtney, 24 Coalgate Road, Tranent EH33 1JH (“the applicant”)

Mrs Joyce Brown, 78 Blink O’Forth, Prestonpans EH32 9GA (“the respondent”)

#### **Tribunal Members:**

Mark Thorley (Legal)  
Gordon Laurie (Ordinary)

#### **Decision**

The First Tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order for eviction be granted.

#### **Background**

1. The applicant applied to the First Tier Tribunal for Scotland (Housing and Property Chamber) by application dated 7 November 2022.
2. Accompanying the application were the following documents:
  - (a) Copy Tenancy Agreement
  - (b) Copy Form AT5
  - (c) Copy Section 33 Notice
  - (d) Copy Notice to Quit
  - (e) Evidence of Notice to Quit being served

- (f) Copy Section 11 Notice
  - (g) Evidence of Section 11 Notice being served
  - (h) Email correspondence between applicant and estate agent
3. The application was received on 7 November 2022.
  4. Further information was sought by the tribunal.
  5. The applicant was acknowledged as complete on 6 December 2022. On 19 December 2022 the application was accepted for determination.
  6. The application was served on the respondent by sheriff officers on 9 February 2023. No written responses were provided.

### **Case Management Discussion**

1. A case management discussion took place by telephone conference call on 14 March 2023. At the case management discussion both the applicant and the respondent attended.
2. The respondent was clear that she was looking for alternate accommodation. She required there to be an order of eviction for the Local Authority to house her. She indicated that she was a 70 year old lady and the whole proceedings were “stressing her out”. She wanted a move. From the applicant’s position the mortgage on the property had matured in November 2022. They needed to sell the property in order to pay off the mortgage. This was their only rental property. They were having to provide monthly updates to the lender. They had contacted an estate agent and were wishing to get the house on the market as soon as an order was granted.

### **Findings in Fact**

1. The parties entered into a Lease Agreement dated 6 May 2016 in which the respondent rented the property at 78 Blink O’Forth, Prestonpans EH32 9GA.
2. Rent was payable at the rate of £585 per calendar month payable monthly and in advance.
3. The property was subject to a mortgage with Barclays Bank plc taken out in November 2007 for a period of 15 years.
4. The mortgage had expired.
5. The applicant required to sell the property in order to discharge the mortgage.

6. The respondent was willing to move.

### **Reasons for Decision**

The respondent was not opposed to the order being granted for eviction. She wished an order to be granted in order that she could secure alternative housing. She was not able to do so without there being an order granted for eviction. She acknowledged that the property needed to be sold.

The applicant confirmed that they were not able to get another mortgage. They were having to advise the mortgage lender month by month as to what was happening. They needed to sell the property. They only rented out one property. This was it. They needed to sell.

The tribunal accepted the basis of sale. The tribunal also noted the respondent was keen for the order to be granted.

In all the circumstances the tribunal accepted that it was reasonable to grant the order.

### **Decision**

To grant an order of 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.**

**M. Thorley**

Legal Member: \_\_\_\_\_

Date: 14 March 2023