

**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/21/2924

**Re: Property at 68A Union Street, Broughty Ferry, Dundee, DD5 2AU (“the
Property”)**

Parties:

**Mr Gassan Al Shaibany, 21 Kirkton Terrace, Carnioustie, Angus, DD7 7BZ (“the
Applicant”)**

**Ms Sarah Pearson, Mr Neil Clephane, 68A Union Street, Broughty Ferry,
Dundee, DD5 2AU; 35 Marketgate, Arbroath, DD11 1AU (“the Respondents”)**

Tribunal Members:

Nicola Irvine (Legal Member) and Melanie Booth (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant is entitled to the Order sought for
recovery of possession of the property; the Tribunal superseded extract of the
Order for 10 weeks.**

Background

1. The Applicant submitted an application under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rule 2017 for an order to evict the Respondents from the property.
2. The case has called previously for a case management discussion on 10 June 2022 and a Hearing on 11 August 2022. Reference is made to the Notes and Notices of Direction issued on those dates.
3. On 7 October 2022, the Tribunal received an email from the First Respondent’s representative, attaching written submissions and a copy was sent to the Applicant’s representative.

The Hearing

4. The Hearing took place by conference call. The Applicant and First Respondent participated, and the First Respondent was accompanied by her son, Mr Watson, who joined as an observer. The Applicant was represented by Mr Rutherford and the First Respondent was represented by Ms Gill.
5. The First Respondent's representative confirmed that, for reasons set out in the written submissions, the application was no longer opposed. There was however a motion on behalf of the First Respondent to supersede extract of the order for eviction for a period of 10 weeks, the reasons for that having been set out in the written submissions. The Applicant's representative explained that there was no opposition to the motion to supersede extract of the order. That being so, the Tribunal granted an order for eviction and superseded extract for 10 weeks.

Findings in Fact

6. The parties entered into a short assured tenancy.
7. The initial term of the tenancy was from 1 July 2014 to 30 June 2015.
8. After the initial term, the tenancy continued on a monthly basis.
9. The Applicant's representative served the Notice to Quit and Section 33 Notice on the Respondents by recorded delivery post on 5 June 2019.
10. The short assured tenancy had reached its end.
11. Tacit relocation was not operating.
12. No further contractual tenancy is in operation.

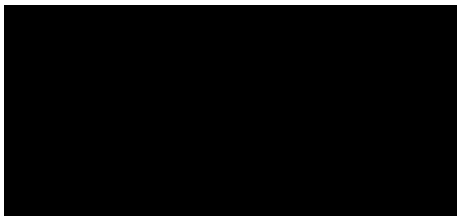
Reason for Decision

13. The Tribunal proceeded on the basis of the documents and written submissions lodged and the submissions made at the Hearing. The Second Respondent has never taken part in the proceedings. The First Respondent did not oppose the application. It was accepted on behalf of the First Respondent that the Tribunal had no discretion to refuse the grant of order for eviction, as long as the conditions of section 33 of the Act were met. The reason for that is that the notices were served before the introduction of the coronavirus legislation. The Tribunal was satisfied that the conditions of section 33 had been met. Accordingly, the Tribunal granted the order for eviction.
14. The Tribunal took account of the personal circumstances of the First Respondent and her family; it was noted that there was no opposition to the

extract of the order being superseded for 10 weeks. The Tribunal was satisfied that it was appropriate in the circumstances to accede to the motion on behalf of the First Respondent.

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.



Legal Member/Chair

21 October 2022
Date