

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/23/0624**

**Re: Property at 2/4 Ramsey Place, Edinburgh, EH15 1JA (“the Property”)**

**Parties:**

**Mr Ahmed Saleh, 69 Milton Crescent, Edinburgh, EH15 3PQ (“the Applicant”)**

**Mr Ramazan Bastug, 2/4 Ramsey Place, Edinburgh, EH15 1JA (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Repossession against the Respondent under section 33 of the Housing (Scotland) Act 1988.**

This Hearing was a Case Management Discussion and concerned an Application for Recovery of Possession on termination of a Short Assured Tenancy under Section 33 of the Housing (Scotland) Act 1988. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained. It was understood a final decision on the Application could be made.

**Attendance and Representation**

The Applicant was represented by Calvin Gordon, Thorntons Law LLP  
3rd Floor City Point, 65 Haymarket Terrace, Edinburgh, EH12 5HD

The respondent was not present. He was served by Sheriff Officer on 11<sup>th</sup> April 2023.

A language interpreter was present and was discharged when not required following the Tribunal not commencing until 2.10pm to allow for full participation.

## **Preliminary Matters**

The Applicant's representative had lodged an Affidavit and productions before the hearing and the Tribunal acknowledged same. These had been sent to the Respondent.

There were no other preliminary matters raised.

## **Case Management Discussion**

The Applicant's representative submitted that the Applicant sought an order for Repossession in terms of Section 33 of the Housing Scotland Act 1988. The submission made was that the tenancy was a Short Assured Tenancy commencing on 1<sup>st</sup> October 2009. The initial term was until 1<sup>st</sup> April 2010 and thereafter same continued on a month to month basis. The Applicant sought to recover same due to a significant increase in the mortgage payment for the property and the lack of payment of any rent for some time. The Applicant's representative said that the Applicant had no alternative but to seek an order and he relied on Section 33. The Applicant was in an untenable situation where even if the rent was paid same would not meet the monthly instalment for the mortgage. The Applicant had lodge confirmation of the mortgage payment.

The Applicants representative said further that the Applicant seeks to sell the property and requires vacant possession to do so. The Applicant understands that the Respondent contacted the city of Edinburgh Council and was told they would not do anything regarding alternative accommodation until an order for possession was granted by the Tribunal.

The Applicant's representative said that the Respondent at one point was in receipt of housing benefit but there has been no payments to rent since 2021 and the Respondent is in arrears of rent in excess of £9000.

## **Findings in Fact and Reasons for Decision**

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- 1. The Tribunal considered it was appropriate to make a decision at the Case Management Discussion on the information before it. The Tribunal was satisfied in terms of the overriding objective that the Respondent had been served and that it had all material information necessary to make a decision in the absence of the Respondent.**
- 2. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.**
- 3. The Tribunal was satisfied that the tenancy was in terms of Section 32(1) of the 1988 Act, a short assured tenancy for not less than 6 months and in relation to which a prescribed notice namely a valid AT5 had been served before creation of the short assured tenancy.**
- 4. In terms of Section 33 of the 1988 Act the Tribunal considered that the Short Assured Tenancy had reached its ish.**

5. Further the Tribunal was satisfied that no tacit relocation was operating, no further contractual tenancy was in existence and a valid Notice to Quit had been served on the Respondent terminating the tenancy with the necessary notice given to the Respondent.
6. Accordingly, in terms of Section 33 of the 1988 Act the Tribunal granted an order against the Respondent for possession of the Property.
7. On the evidence available to the Tribunal the Respondent had no dependents known residing with him or vulnerabilities. No written representations had been received. The Respondent was in arrears of rent in excess of £9000. A sworn affidavit was lodged confirming the last payment to rent for the property was in 2021. The Applicant had also lodged confirmation that the mortgage payment for the property was higher than the monthly contractual rent and had increased significantly. The Tribunal found an Order was reasonable on balance in absence on the available facts before it in terms of the Coronavirus (Scotland) Act 2020.
8. Accordingly, in terms of Section 33 of the 1988 Act the Tribunal granted an order against the Respondent for possession of the Property.
9. The Tribunal noted the application was subject to the provisions of the The Cost of Living (Tenant Protection) (Scotland) Act 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.

15/05/2023

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**Legal Member/Chair**

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**Date**

