



**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/22/2844**

**Re: Property at 3 Begbie Cottage, Begbie, Haddington, East Lothian, EH41 4HQ  
("the Property")**

**Parties:**

**H & K Enterprises Ltd, Lennoxlove Estate Office, Lennoxlove Estate,  
Haddington, East Lothian, EH41 4NZ ("the Applicant")**

**Ms Jacqueline Brunton, 3 Begbie Cottage, Begbie, Haddington, East Lothian,  
EH41 4HQ ("the Respondent")**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Ms E Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that an order for possession should be granted**

**Background**

1. This is an application dated 12<sup>th</sup> August 2022 and made in terms of Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended ('the Rules'). The Applicant is the landlord of the Property, and the Respondent is the tenant, in terms of a short assured tenancy agreement that commenced on 12<sup>th</sup> February 2010 enduring until 11<sup>th</sup> August 2010, and monthly thereafter.
2. The Applicant lodged a copy of the short assured tenancy agreement, Form AT5, section 11 notice with evidence of service, and Notice to Quit and section 33 notice dated 27<sup>th</sup> and served on 28<sup>th</sup> May 2022, requiring the Respondent to quit by 11<sup>th</sup> August 2022, with evidence of service.
3. By letter dated 29<sup>th</sup> October 2022, the Respondent lodged written representations and two medical letters of support.

4. By email dated 8<sup>th</sup> November 2022, the Respondent's solicitor lodged further representations, a medical letter and a benefits letter.

### **The Case Management Discussion**

5. A Case Management Discussion took place by telephone conference on 24<sup>th</sup> November 2022. The Applicant was represented by Mr Niven Simpson and Ms Caroline Cooper. The Respondent was in attendance.
6. Mr Simpson said the Applicant had a requirement for funds within the company and had decided to sell the Property and the adjacent semi-detached property to raise funds. The Applicant has eleven properties and is only selling these two properties. The Applicant does not have alternative housing to offer the Respondent at this time as their tenants tend to stay long term.
7. The Respondent said she was not opposing the order, as it has been very stressful for her and her family, and she needs a solution. Responding to questions from the Tribunal, the Respondent said she had been in touch with the local authority homelessness department. They had responded to say they hoped to secure alternative housing for her, but that was a couple of months ago and she has not heard anything further. Responding to questions from the Tribunal as to her preferred outcome of the CMD, the Respondent said she needed a decision and a solution to the stressful situation.

### **Findings in Fact and Law**

8.
  - (i) Parties entered into a short assured tenancy agreement in respect of the Property that commenced on 12<sup>th</sup> February 2010 enduring until 11<sup>th</sup> August 2010, and monthly thereafter.
  - (ii) Notice to Quit and Section 33 Notice were served on the Respondent, requiring the Respondent to quit by 11<sup>th</sup> August 2022.
  - (iii) The short assured tenancy has reached its ish date.
  - (iv) The contractual tenancy terminated on 11<sup>th</sup> August 2022.
  - (v) Tacit relocation is not in operation.
  - (vi) The Applicant has given the Respondent notice that they require possession of the Property.
  - (vii) It is reasonable to grant the order for possession.

## **Reasons for Decision**

9. Section 33 of the Act provides that the Tribunal may make an order for possession if satisfied that the short assured tenancy has reached its finish, tacit relocation is not operating, the landlord has given notice to the tenant that they require possession, and it is reasonable to make the order.
10. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that they require possession of the Property.
11. The Applicant requires to make adjustments to its portfolio to release funds and proposes to sell the Property to do so.
12. The Respondent is not opposing the order being granted as she feels a solution has to be reached and it will assist her in gaining social housing.
13. The Tribunal decided it would be appropriate to extend the period before which the order can be executed to 31<sup>st</sup> January 2022, given the time of year.
14. In all the circumstances, the Tribunal considered it reasonable to grant the order.

## **Decision**

15. An order for possession of the Property is granted under section 33 of the Housing (Scotland) Act 1988. The order is not to be executed prior to 12 noon on 31<sup>st</sup> January 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.**

Helen Forbes  
**Legal Member/Chair**

**24<sup>th</sup> November 2022**  
**Date**