



**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/22/2385**

**Re: Property at 7 Chalkhill Court, Dundee, DD4 0LU (“the Property”)**

**Parties:**

**Mrs Vicki Etchels, Sierra Golf Urb, 236 Calle Lorca, Jeronimo Y Avilese, Murcia, 30592, Spain (“the Applicant”)**

**Miss Samantha Scullion, 7 Chalkhill Court, Dundee, DD4 0LU (“the Respondent”)**

**Ms H Forbes (Legal Member) and Mr A Khan (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 received on 19<sup>th</sup> July 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 8<sup>th</sup> May 2017 enduring until 9<sup>th</sup> November 2017, and monthly thereafter.
2. The Applicant’s representative 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 and served on 13<sup>th</sup> May 2022, requiring the Respondent to quit by 9<sup>th</sup> July 2022, with evidence of service.

**The Case Management Discussion**

3. A Case Management Discussion took place by telephone conference on 24<sup>th</sup> October 2022. The Applicant was not in attendance and was represented by Ms Kirstie Donnelly, Solicitor. The Respondent was in attendance.

### **The Respondent's position**

4. The Respondent informed the Tribunal that she was not opposing the order. She is in touch with the local authority and is on their housing list. She has been told that she will be declared homeless and housed if an order is granted. Responding to questions from the Tribunal, she said she did not require any extra time, and would be content for the order to be granted in order to allow her to gain social housing.

### **The Applicant's position**

5. Ms Donnelly moved the Tribunal to grant the order sought. The requisite notices have been served and the contractual tenancy has ended. In terms of reasonableness, the Applicant requires to sell the Property. She has recently gone through a divorce, and she has moved to Spain. She wishes to sell all her properties in the UK. Furthermore, there are rent arrears in the sum of £3690.
6. The Tribunal adjourned to consider its decision. The Tribunal decided it was reasonable in all the circumstances to grant the order sought.

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

7.
  - (i) Parties entered into a short assured tenancy agreement in respect of the Property that commenced on 8<sup>th</sup> May 2017 enduring until 9<sup>th</sup> November 2017, and monthly thereafter
  - (ii) Notice to Quit and Section 33 Notice dated 13<sup>th</sup> May 2022 were served on the Respondent, requiring the Respondent to quit by 9<sup>th</sup> July 2022.
  - (iii) The short assured tenancy has reached its ish date.
  - (iv) The contractual tenancy terminated on 9<sup>th</sup> July 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**

8. 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.

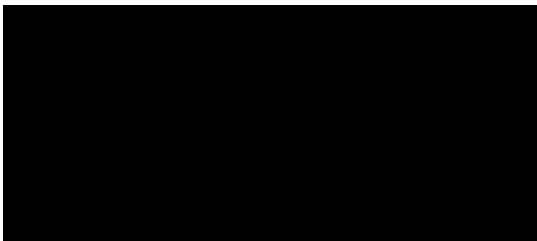
9. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that they require possession of the Property.
10. The Applicant's circumstances have changed and she requires to sell her UK properties. The rent arrears have also caused financial difficulty.
11. The Respondent is in agreement to the order being granted as it will assist her in gaining social housing.
12. In all the circumstances, the Tribunal considered it reasonable to grant the order.

### **Decision**

13. 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 28<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.**



**Legal Member/Chair**

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