



**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/19/3541**

**Re: Property at 25 Gilmerton Dykes Place, Edinburgh, EH17 8JQ (“the  
Property”)**

**Parties:**

**Mrs Winifred McGeever, 95 Newtoft Street, Edinburgh, EH17 8QX (“the  
Applicant”)**

**Ms Ria Thomson, 25 Gilmerton Dykes Place, Edinburgh, EH17 8JQ (“the  
Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the Applicant was entitled to an order for the  
possession of the property and the ejection of the Respondent from the  
property.**

**Background**

1. By Application dated 5 November 2019 the Applicant applied to the Tribunal for an order for possession of the property and the ejection of the Respondent from the property on the ground that the Respondent’s tenancy of the property had reached its term. The Applicant submitted a copy of the Short Assured Tenancy Agreement, Form AT5, Notice to Quit, Section 33 Notice, Sheriff Officers Execution of Service and a Section 11 Notice. The Applicant also explained how the title to the property was shared with her three siblings and that her brother Paul McGlinchey was a joint landlord with herself.
2. A legal member with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management Discussion was sent to the Applicant by post and was served on the Respondent by Sheriff Officers on 23 December 2019.

#### The Case Management Discussion

4. A Case Management Discussion was held at Riverside House, Edinburgh on 24 January 2019. It was attended by the Applicant supported by her husband John McGeever. The Respondent did not attend and was not represented. The Tribunal being satisfied that proper intimation of the application had been made to the Respondent determined to proceed with the Case Management Discussion in her absence in accordance with Rule 29 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Rules").
5. The Applicant confirmed she was representing her brother Paul McGlinchey as a co-landlord of the property. She confirmed the parties had entered into a Short Assured Tenancy Agreement that had commenced on 30 June 2016 and had lasted for one year and had then continued on a month to month basis thereafter. The Applicant confirmed that the Respondent had been given the form AT5 prior to the commencement of the tenancy and referred the Tribunal to the documents lodged with the application.
6. The Applicant explained she had given the Respondent verbal notice to quit previously and had then sent other notices to quit by ordinary post but had not been certain of what to do thereafter. She said she had then last year joined the Scottish Association of Landlords and obtained advice from them. She referred the Tribunal to the Notice to Quit and Section 11 Notice submitted with the application which she had arranged to be served on the Respondent by Sheriff Officers on 19 August 2019. The Notices gave the Respondent until 30 October 2019 to vacate the property.
7. The Applicant said the Respondent continued to reside in the property. She had been told that the Respondent had said that if she moved out without an order being in place the council would not rehouse her.
8. The Applicant confirmed that she had intimated the proceedings to Edinburgh City Council and referred the Tribunal to the Section 11 Notice submitted with the application.
9. The Applicant asked the Tribunal to grant the order sought.

#### Findings in Fact

10. The Applicant and her brother Paul McGlinchey entered into a Short Assured Tenancy Agreement with the Respondent that commenced on 30 June 2016 and endured for a period of one year to 30 June 2017 and then from month to month thereafter.

11. A Notice to Quit and Section 11 Notice was served by Sheriff Officers on the Respondent on 19 August 2019 requiring the Respondent to vacate the property by 30 October 2019.
12. A Section 11 Notice was sent to the Edinburgh City Council by the Applicant at the commencement of these proceedings.

#### Reasons for Decision

13. The Tribunal was satisfied that there was a valid Short Assured Tenancy Agreement in place. The respondent had been given a Form AT5 prior to the commencement of the tenancy. The tenancy agreement confirmed it was intended to be a Short Assured Tenancy under the Housing (Scotland) Act 1988 ("the 1988 Act") and therefore could be brought to an end on an ish date. The original term was for one year and then proceeded from month to month thereafter. In terms of the 1988 Act the Applicant was obliged to give the Respondent two months' notice of the termination of the tenancy.
14. The Tribunal was satisfied from the documents produced by the Applicant that a proper Notice to Quit and Section 33 Notice had been served on the Respondent giving her the prescribed period of notice.
15. The Tribunal was satisfied that proper intimation of the proceedings had been given to the Edinburgh City Council as shown by the Section 11 Notice submitted by the Applicant.
16. The Tribunal was therefore satisfied that the Applicant had met the statutory requirements of Section 33 of the 1988 Act and was therefore entitled to an order for possession of the property and the ejection of the Respondent from the property.

#### Decision

17. The Tribunal having considered the oral submissions of the Applicant together with the documents lodged in support of the application finds the Applicant entitled to an order for the possession of the property and the ejection of the Respondent from the property.

#### 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.**

Graham Harding

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Legal Member/Chair

24 January 2020  
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Date