



**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/21/2231**

**Re: Property at 3 Finella Terrace, Dundee, DD4 9PX (“the Property”)**

**Parties:**

**JBS Property Ltd, Suite G1 Faraday Business Centre, 34 Faraday Street, Dundee, DD2 3QQ (“the Applicant”)**

**Miss Tracy Jackson, 3 Finella Terrace, Dundee, DD4 9PX (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Helen Barclay (Ordinary Member)**

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

**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.**

**Background**

The Applicant submitted an application seeking an order to evict the Respondent from the property at 3 Finella Terrace, Dundee. The Tribunal intimated the application to the parties by letter of 16 November 2021 and advised them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the case management discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 7 December 2021. No written representations were received by the Tribunal.

## **The Case Management Discussion**

Mr Shankland, director of the Applicant, participated in the case management discussion and was represented by Mr Lawson. The discussion proceeded in the absence of the Respondent. Mr Shankland advised the Tribunal that the Respondent is believed to live alone at the property and is in receipt of benefits. The Applicant's property manager has tried to make contact with the Respondent, but she has failed to respond. The Respondent allowed a plumber to access the property, who had been instructed by the Applicant. The plumber found that there was a gas leak in the property but could not identify the source of the leak without further investigation. A safety notice was placed on the gas supply and the supply was turned off. There is an issue in relation to rent arrears arising because the shortfall of rent has not been met by the Respondent. That however, is not the ground upon which eviction has been sought. The Applicant sought to rely upon Section 33 of the Housing (Scotland) Act 1988. The Applicant's position is that the conditions set out in Section 33 of the Act have been met and the short assured tenancy terminated at the ish. It was submitted that in all the circumstances, it was reasonable to grant the order for eviction.

## **Findings in Fact:**

1. The Respondent entered into a short assured tenancy agreement which commenced 1 July 2007.
2. The Applicant served notice in terms of Section 33 of the Housing (Scotland) Act 1988 dated 10 December 2020 by sheriff officer, indicating that the Applicant required possession of the property no later than 1 July 2021.
3. The Applicant served a Notice to Quit dated 10 December 2020 indicating that the Respondent should remove from the property by 1 July 2021.
4. The short assured tenancy had reached its ish.
5. Tacit relocation was not operating.
6. No further contractual tenancy is in operation.

## **Reason for Decision**

The Tribunal proceeded on the basis of the written documents which were before it. The Applicant invited the Tribunal to make the Order sought and submitted that it was reasonable to do so. The Applicant relied upon Section 33 of the Act. The notice had been properly served. The Tribunal was satisfied that conditions of Section 33 had been met and that it was reasonable in the circumstances to grant the order. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

## **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.**

Nicola Irvine

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**Legal Member/Chair**

**20 December 2021**

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**Date**