



**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/22/2169**

**Property: 9 Brington Place, Dundee DD4 7QF ("Property")**

**Parties:**

**Colin Will and Stephanie Will, Colinian, Newbigging Road, Tealing, Angus DD4  
0QX ("Applicant")**

**Campbell Boath, Solicitors, Bank House, Stirling DD3 6PJ. ("Applicant's  
Representative")**

**Stuart Roxburgh and Sheryl Stewart, 9 Brington Place, Dundee DD4 7QF  
("Respondent")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**David Fotheringham (Ordinary Member)**

**Decision**

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

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement dated 28 April 2013; AT5 dated 28 April 2013; two Notices to Quit and Notices in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act"), one addressed to each Respondent, both dated 14 April 2022; two Royal Mail proof of delivery dated 16 April 2022; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering letter dated 1 July 2022 and certificate of service by Sheriff Officer evidencing service of the Application on the Respondent on 24 August 2022.

## **Case Management Discussion (“CMD”)**

A CMD took place on 10 October 2022 by conference call. In attendance for the Applicant was Alex Campbell of the Applicant’s Representative. The Respondent was not in attendance.

The Tribunal noted that the notices served were in order and asked about the question of reasonableness. Mr Campbell told the Tribunal that the Applicants were both retired and wished to sell the Property. He said that a previous application to the Tribunal had been rejected as the notices served did not state the correct ish. He said that at that time the Respondent wrote to the Tribunal asking for the notices to be accepted as she was desperate to be re-housed by the Local Authority but they would not assist until an order for eviction was granted. She has 4 children so required a 4 bedroom property which are in high demand.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 28 April 2013.
2. The Applicant and the Respondent had signed the form AT5 on 28 April 2013.
3. The tenancy was for the period 30 April 2013 to 31 October 2013 and unless terminated would continue thereafter on two monthly basis.
4. A Notice to Quit dated 14 April 2022 was served on the Respondent on 16 April 2022 stating that the tenancy would terminate on 30 June 2022.
5. A Notice in terms of Section 33 of the 1988 Act dated 14 April 2022 was served on the Respondent on 16 April 2022 stating that possession of the Property was required on 30 June 2022.
6. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

## **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy. The Tribunal noted that a Section 33 Notice and Notice to Quit had been served on the Respondent giving more than two months notice that the Applicant required possession of the Property. Having considered all of the

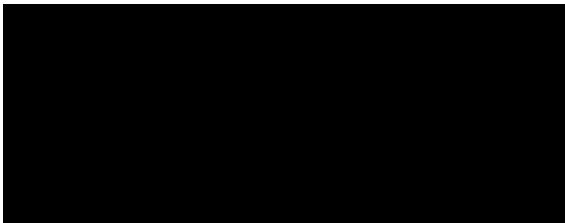
circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

### **Decision**

The Tribunal grants an Order for possession of 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.**



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**Legal Member**

**Date: 10 October 2022**