



**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:** Reference number: FTS/HPC/EV/22/4252

**Property:** 4 Saughs Gate, Robroyston, G33 1HH (“The property”)

**Parties:**

Edward Nisbet & Andrea Girvan, 61 Hilton Terrace, Bishopbriggs, Glasgow, G64 3EX (“the Applicant”)

And

Ms Marie Tollan, residing at 4 Saughs Gate, Robroyston, G33 1HH (“the Respondent”)

**Tribunal Members:**

**Paul Doyle (Legal Member)**

**Mr Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988.**

**Background**

1. By application (made on form E) dated 24 November 2022, the applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for an order for repossession of the property from the respondent relying on S.33 of the Housing (Scotland) Act 1988. The applicant wants to sell the property.

**Case Management Discussion**

2. A Case Management Discussion took place before the Tribunal by telephone conference at 2.00pm on 27 March 2023. Both applicants were present. They were (then) represented by Ms S Cook of Coda Estates. The respondent was not present, but was represented by Mr J Ballantine of Legal Services Agency. At the Case

Management Discussion, the tribunal made the following findings of fact, and identified the sole remaining area of dispute between the parties.

### OUR FINDINGS OF FACT

(i) On 09 June 2015 the applicant and respondent entered into a short-assured tenancy agreement. On 05 June 2015, the respondent received form AT5 from the applicant. The lease commenced on 18 June 2015. The lease was extended until 12 July 2022. A notice to quit and s.33 notice were served on the respondent on 12 April 2022.

(ii) S. 11 notices were served on both the respondent and Glasgow City Council by the applicant.

(iii) The respondent accepts that the grounds for eviction set out in s.33 of the Housing (Scotland) Act 1988 are met.

(iv) The respondent remains in the property.

### The area of Dispute

The Applicant seeks recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988. The tenancy was a short-assured tenancy. Correct notice was given to bring the short-assured tenancy to an end. The respondent does not dispute that the grounds for eviction set out in s.33 of the Housing (Scotland) Act 1988 are met. An order cannot be granted unless the Tribunal is satisfied that it is reasonable to issue an eviction order. The sole area of dispute is whether or not it is reasonable to grant an eviction order.

### EVIDENTIAL HEARING

3. The case was continued to an evidential hearing which took place at 10am on 8 June 2023. The Applicant was represented by Mr D Doig of Raeside Chisholm Solicitors Limited. The Respondent was represented by Mr J Ballantine of Legal Services Agency.

4. Mr Doig and Mr Ballantine told us that agreement had been reached. Mr Ballantine consented to Mr Doig's motion for an order for repossession of the property which cannot be enforced before 8 January 2024 unless there are arrears of rental. If there are arrears of rental, the order can be enforced on or after 8 December 2023.

### Reasons for decision

5. The Applicant seeks recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988 because the short-assured tenancy had been brought to an end on 12 July 2022 by service of the s.33 notice.

6. The respondent does not resist the application. The applicant is content to wait until 08 January 2024 before repossessing the property so long as the rental does not fall into arrears. If arrears of rental accumulate, parties agree that the repossession order can be enforced on and after 8 December 2023. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property, but to delay enforcement of the order until 8 January 2024, unless arrears of rental accumulate, in which case the order can be enforced from 8 December 2023. The respondent no longer challenges the reasonableness of an order for repossession of the property.

7. The tenancy was a short-assured tenancy. Correct notice was given which brought the short-assured tenancy to an end on 12 July 2022. The basis for possession set out in s.33 of the 1988 Act is established.

8. The respondent withdraws her resistance to the application. The finite time for occupancy of the property as a short-assured tenancy has come to an end. The test of reasonableness is met.

9. On joint motion, we are asked to grant an order for repossession which cannot be enforced before 8 January 2024, unless arrears of rental accumulate, in which case the order can be enforced from 8 December 2023. For these reasons, the Tribunal determined to grant an Order for possession.

10. The Tribunal makes an Order for possession of the Property in terms of Section 33 of the 1988 Act.

### **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession.

### **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.**

**8 June 2023**

**P Doyle**

**Legal Member**