

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/23/2450**

**Re: Property at 19 Westwood Walk, Montrose, Angus, DD10 9DA (“the  
Property”)**

**Parties:**

**Mrs Fiona Herald, 16 Adam Christie Avenue, Montrose, Angus, DD10 9GE (“the  
Applicant”)**

**Ms Doreen Sellar, 19 Westwood Walk, Montrose, Angus, DD10 9DA (“the  
Respondent”)**

**Tribunal Members:**

**Fiona Watson (Legal Member) and Eileen Shand (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an order is granted against the Respondent for  
possession of the Property under section 33 of the Housing (Scotland) Act 1988.**

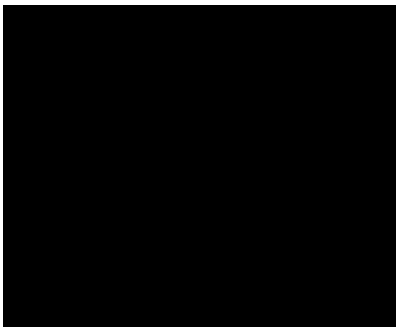
- Background
  1. An application was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondent upon termination of a short assured tenancy agreement.
- The Case Management Discussion
  2. A Case Management Discussion (“CMD”) took place on 7 November 2023. The Applicant and the Respondent were each personally present and represented themselves.

3. The Applicant moved for the order for repossession to be granted as sought. The parties had entered into a Short Assured Tenancy Agreement. The Applicant had served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") on the Respondent. The Respondent had failed to remove from the Property and continued to reside therein. The Applicant required repossession of the Property as she was suffering from financial hardship. She had separated from her husband last year and had to remortgage the Property in order to fund the purchase of another property for her and her children to live in. She was struggling to meet the costs of both properties and requires to sell the let Property in order to reduce the mortgage on the house she lives in with her two children. She cannot afford to meet any repairing costs to the let Property should they arise. The Applicant submitted that the Respondent has been a good tenant, but she cannot afford to continue to be a landlord any longer and needs to sell.
4. The Respondent submitted that she is a Kinship Carer for her 15-year-old grandson and has done so for 8 years. She has applied to the Local Authority for rehousing but they have advised that they cannot offer her anything whilst she has a tenancy to live in. They have advised her not to leave the Property voluntarily or she will lose her place on the housing list. She has been bidding on other properties via the Local Authority but has been unsuccessful. She is nearly 65 years old and has issues with her knees and back.
  - Findings in Fact
5. The Tribunal made the following findings in fact:
  - (i) The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 3 October 2016.
  - (ii) A Notice to Quit and notice under section 33 of the 1988 Act dated 8 May 2022 were served on the Respondent dated 8 May 2022 by recorded delivery post;
  - (iii) The Notice to Quit and notice under section 33 of the 1988 Act required the Respondent to remove from the Property by 8 August 2022;
  - (iv) The Respondent had failed to remove from the Property and continued to reside therein.
  - Reasons for Decision
6. The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met: namely that the tenancy had reached its end; tacit relocation was not operating and a notice had been served in terms of that section giving at least 2 months' notice. The Tribunal was also satisfied that it was reasonable to grant the Order. The Tribunal was satisfied that there had been no fault or wrongdoing on the part of the Respondent whatsoever and that she finds herself in a very difficult and unfortunate position. However, the Tribunal was satisfied that the Applicant was suffering from financial hardship and that it was reasonable to seek an order to allow her to free herself from the financial burden caused by the let Property. The Tribunal sincerely hoped that by granting the Order, the Local Authority would offer the Respondent alternative accommodation suitable for both her and her grandson.

- Decision
7. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

### **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.**



**Date: 7 November 2023**