



**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/24/3207**

**Re: Property at 31 Windward Road, East Kilbride, G75 8NR (“the Property”)**

**Parties:**

**Mrs Elaine Thompson, Ms Heather Donaldson, 27 Stamperland Gardens,  
Glasgow, G76 8HQ; 2 Coleridge, Westwood, East Kilbride, G75 8RD (“the  
Applicant”)**

**Mr James Livingston, 31 Windward Road, East Kilbride, G75 8NR (“the  
Respondent”)**

**Tribunal Members:**

**Yvonne McKenna (Legal Member) and Ann Moore (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an Order for Possession be granted.**

**Background**

1. This was an application dated 12 July 2024 and brought in terms of Rule 66 (Application for order for possession upon termination of a short assured tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.
2. The Applicant provided with their application copies of a short assured tenancy agreement, form AT5, Notice to Quit, section 33 Notice, Section 11 Notice, and relevant proof of service.

3. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988, and the procedures set out in that Act had been correctly followed and applied.
4. In relation to the Notice to Quit and the section 33 Notice these had been served on the Respondent by the Applicant by recorded delivery mail, and the Applicant had provided proof of receipt.
5. The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 28 October 2024, and the Tribunal was provided with the execution of service.
6. The Respondent was invited to lodge written submissions with the Tribunal by 15 November 2024. No written representations were received.

### **The Case Management Discussion**

7. A Case Management Discussion was held at 10:00am on 5 December 2024, by teleconference. The Applicant was represented by Ms Lorraine Robb of Property Store EK Ltd. Also present was Ms Gail Robertson from the company. The Respondent was not in attendance and was not represented.
8. Ms Robb said that she had not heard anything from the Respondent for the past few weeks. She sought the order for repossession. She stated that South Lanarkshire Council would not progress the Respondent's application for rehousing without an eviction order. The Respondent has been in touch with the local authority. Ms Robb is aware of that as the Respondent's sister had been in contact with her, after the Notices were served, to let her know.
9. In relation to the circumstances of the landlord, Ms Robb said that the Property had originally been owned by a mother and father who were now deceased. The Property was then rented out by the 2 members of the family who are the Applicant. Their relationship has now broken down, and they are not in contact with each other. This is making it difficult to manage the Property. Both ladies are now in their 60s. They want to sell the Property in order to exit the rental market. In addition, one of the Applicants has another property which is in rent arrears and placing financial constraints on them.
10. The Respondent has been in the Property as a tenant for a number of years. He is understood to live there together with his adult son. No one in the Respondent's family has any special needs or disabilities, as far as the Applicant is aware, and the Property has not been adapted to accommodate the family.

### **Findings In Fact**

11. The Applicant let the Property to the Respondent by virtue of a short-assured tenancy agreement within the meaning of the Act;

12. The Applicant competently ended the tenancy by serving a Notice under Section 33 of the Act and a Notice to Quit.
13. The Applicant competently served a notice under Section 11 of the Homelessness (Etc) (Scotland) Act 2003 to South Lanarkshire local authority.
14. The Applicants no longer enjoy a good relationship with each other, which is impacting on their ability to manage the Property. The Applicant has another rented property which is in rent arrears and placing them under financial difficulties. The Applicant wishes to exit the rental market and to sell the Property.
15. The Respondent and the Respondent's family member living in the Property are not known to have any particular health issues.
16. The Respondents have not engaged with the Tribunal process. The Respondent has not set out in written submissions any representations which contest this application or set out any reason why it would be unreasonable to grant the Order for Possession. The Respondent has chosen not to attend the CMD.
17. It is reasonable in all the circumstances for the Order for Possession to be granted.

### **Reasons for Decision**

18. In terms of Section 33 of the Housing (Scotland) Act 1988 as amended, the Tribunal may make an order for possession of the house let on the tenancy if:  
(i) the short assured tenancy has reached its end; (ii) tacit relocation is not operating; (iii) the landlord has given to the tenant notice stating that he requires possession of the house; and (iv) it is reasonable to make an order for possession.
19. All of the above criteria had been satisfied in this application, and the Tribunal was satisfied in the circumstances explained by the Applicant, and in the absence of the Respondent, having been afforded due notice of the date of the CMD, that it was reasonable to grant an order for possession.
20. A section 11 notice under the Homelessness etc (Scotland) Act 2003 has been issued to South Lanarkshire Council. In the event of an eviction order being made the local authority is under a statutory duty to make suitable alternative accommodation available.

### **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.**

**Yvonne McKenna**

**5 December 2024**

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**Legal Member/Chair**

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**Date**

