



**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 and Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Reference number:**

FTS/HPC/EV/24/1867 Re: Property at Craig Dhu, Springbank, Alyth, PH11 8BH (“the Property”)

**The Parties:**

Mrs Sharon Prentice, residing at Lochmill House, Kirriemuir, Angus DD8 4JQ (“the Applicant”)

Miss Jennifer Jackman residing at the Property (“the Respondent”)

**Tribunal Members:**

Karen Moore (Legal Member) and Helen Barclay (Ordinary Member)

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory process for eviction and recovery of possession having been established, it is reasonable to grant the Order sought.

**Background**

1. By application received between 24 April 2024 and 15 May 2024 (“the Application”), the Applicant applied to the Tribunal for an Order for eviction and possession of the Property based the termination of the tenancy in terms of Section 33 of the 1988 Act.
2. The Application comprised the following: copy short assured tenancy agreement in respect of the Property with AT5 (“SAT”); copy Notice in terms of Section 33 of the 1988 Act; copy Notice to Quit; copy certificates in respect of the Applicant’s status as landlord; copy correspondence explaining the reason for the Application; Copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Perth and Kinross Council being the relevant local authority.

3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (“CMD”) took place on 7 October 2024 at 14.00. Both the Applicant and the Respondent were present. Neither was represented. The Tribunal first addressed the fact that although the SAT narrates the tenants as Ross Mitchell and the Respondent, the Notices have been issued only to the Respondent. The Parties explained that they are on good terms and that Mr. Mitchell vacated the Property in September 2020 but no steps were taken to amend the SAT. The Respondent advised that she had contact details for Mr. Mitchell. Accordingly, the Tribunal continued the CMD to enable the Applicant to obtain confirmation from Mr. Mitchell that he had relinquished his interest in the tenancy.
4. The Applicant submitted the necessary letter.

#### **Adjourned CMD**

5. The adjourned CMD took place on 16 January 2025 at 14.00 by telephone. Again both the Applicant, Mrs. Prentice, and the Respondent, Mrs. Jackman, were present and neither was represented. The Tribunal confirmed that it was satisfied that the statutory procedure for the Application had been carried out correctly and explained that it was now required to consider the reasonableness of the Application.
6. The Tribunal asked Mrs. Jackman if she opposed the Application and she advised that she did not and was on the local authority waiting list. With regard to her personal circumstances, Mrs. Jackman advised the Tribunal that she is a single parent employed as a shop assistant with three children: a son aged 14 years and a daughter and son who are 12 year old twins.
7. Mrs. Prentice stressed that Mrs. Jackman is a good and exemplary tenant. Mrs. Prentice explained that she requires to terminate the tenancy in order to reside in it herself. She explained that she is recently widowed and that her elderly mother now resides with her. They require to reside in the Property for both financial reasons and as the Property is more suitable to their family unit.

#### **Issue for the Tribunal**

8. The issue for the Tribunal is to determine if the statutory ground is established and if it is reasonable to grant the Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “*may do anything at a case management discussion .....including making a decision*”. The Tribunal took the view that it had sufficient information to make a decision. Therefore, the Tribunal proceeded to determine the Application.

### **Findings in Fact**

9. From the Application and the CMD, the Tribunal made the following findings in fact: -

There is a short assured tenancy of the Property between the Parties;

A valid Section 33 Notice and a valid Notice to Quit were served;

The Respondent has not vacated the Property but is prepared to do so if housed by the local authority;

The Respondent does not oppose the Application;

The Applicant and her mother as a family unit intend to reside in the Property and require vacant possession to do so;

The Applicant relies on the rent as source of income;

The Respondent is single parent with three school age children;

The Respondent works locally and

The Respondent is on the local authority housing waiting list.

### **Decision and Reasons for Decision**

10. The Tribunal had regard to all the information before it and to its Findings in Fact.

11. The statutory ground and procedure being established, and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order.

12. The Tribunal then had regard to the circumstances of the Parties.

13. The Tribunal must establish, consider and properly weigh the "whole of the circumstances in which the application is made" (*Barclay v Hannah* 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.

14. The Tribunal then looked to balance the rights and interests of both parties.

15. The Tribunal noted that when the tenancy was entered into, Mrs. Prentice as landlord was entitled to a mandatory recovery of possession without a reasonable test. The Tribunal had regard to the change in Mrs. Prentice's circumstances whereby she and her mother had a pressing need to reside in the Property. The Tribunal had regard to the fact that Mrs. Jackman had made contact with the local authority and was taking active measures to secure

alternative accommodation. The Tribunal also placed weight on the fact that she did not oppose the Application.

16. With regard to alternative accommodation, the Tribunal had regard to the fact that, if evicted and made homeless, Mrs. Jackman and her family would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance on homelessness.

17. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction order.

18. This Decision is unanimous.

### **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.**

# Karen Moore

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Legal Member/Chair

16 January 2025  
Date