

**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 18(1) of the Housing (Scotland) Act 1988**

**Chamber Ref: FTS/HPC/EV/21/1252**

**Re: Property at 30 Howden Avenue, Kilwinning KA13 7AH (“the Property”)**

**Parties:**

**Ms Yan Li, 73 High Street, Irvine KA12 0AL (“the Applicant”), and**

**and**

**Ms Joyce Bennie, 30 Howden Avenue, Kilwinning KA13 7AH (“the Respondent”) and**

**CHAP, 71 Princes Street, Ardrossan KA22 8DG (“the Respondent’s Representative”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**G Darroch - Ordinary Member**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:**

**Background**

1. This is an Application, comprising of documents lodged with the Tribunal between 26<sup>th</sup> May 2021 and 12<sup>th</sup> July 2021, 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 Rules of Procedure (“the 2017 Rules”).

2. The Applicant provided the Tribunal, in the Application, with copies of the Short Assured Tenancy agreement, Form AT5, Notice to Quit and Section 33 and 11 Notices with relevant Executions of Service. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988 (“the Act”), and the procedures set out in the Act had been correctly followed and applied.
3. The Respondent had been validly served by Sheriff Officers with the Application papers, Guidance Notes and Notification from the Tribunal on 30<sup>th</sup> July 2020, and the Certificate of Service was produced.

### **Case Management Discussion on 2<sup>nd</sup> September 2021**

4. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 10am today, 2<sup>nd</sup> September 2021. The Applicant did not attend. Mr A Meek, of CHAP, the Respondent’s Representative, attended on her behalf.
5. The Tribunal Clerk called the Applicant on two occasions after 10am today but the calls were not answered. The Tribunal commenced the Hearing at 10.20am this morning.
6. Mr Meek submitted that the Respondent accepted that the outstanding rent arrears of £3369.88, referred to in the linked Application Ref FTS/HPC/CV/21/1347, were due, and that a payment order in that amount should be granted. He stated that the Respondent’s tenancy of the Property was unaffordable for her and that she would seek to repay the arrears after she was re-homed in other accommodation. Mr Meek further submitted that CHAP is assisting the Respondent with an application for alternative housing. He also, candidly, stated that the Respondent accepted that an Eviction order should be granted and that this would stop further rent arrears accruing. Mr Meek also submitted that the rent arrears had increased since the lodging of the Application and acknowledged that it was open to the Applicant to lodge a fresh Application for a payment order in respect of a further balance of rent arrears due.

### **Statement of Reasons**

7. In terms of Section 33 of the Housing (Scotland) Act 1988, the Tribunal shall make an order for possession of the house let on the tenancy if:
  - (a) the short assured tenancy has reached its ish;
  - (b) tacit relocation is not operating;
  - (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
  - (d) the landlord has given to the tenant notice stating that he requires possession of the house.

8. All of the above criteria have been satisfied in this Application, and accordingly the Tribunal shall make an order for possession. The reasonableness of the granting of the order is accepted by the Respondent.

**Decision**

9. In the circumstances, the Tribunal makes an order for possession of the Property as sought in this Application.

**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.**



G McWilliams

2<sup>nd</sup> September 2021

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**Legal Member**

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**Date**