



**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/23/1587**

**Property: 1/0 107 Strathmartine Road, Dundee DD3 7SD ("Property")**

**Parties:**

**Jan and Lee Brown, 309 Strathmartine Road, Dundee DD3 8NS ("Applicant")**

**Gilmartin Finlay MacRae, 13 Cowgate, Dundee DD1 2HS ("Applicant's  
Representative")**

**Dayna Ferguson, 1/0 107 Strathmartine Road, Dundee DD3 7SD  
("Respondent")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Angus Lamont (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber)  
("Tribunal") determined that an order for possession of the Property should be  
made.**

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement dated 20 April 2017; AT5 dated 20 April 2017; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 7 February 2023 and both addressed to the Respondent; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 16 May 2023; letter from Dundee Law Centre dated 28 March 2023 in which they note the Respondent received the Notice to Quit and Notice in terms of section 33 of the 1988 Act. The Tribunal had sight of a sheriff officer's execution of service confirming service of the Application on the Respondent on 1 September 2023.

### **Case Management Discussion (“CMD”)**

A CMD took place on 12 October 2023. Iain MacRae of the Applicant’s Representative was in attendance. There was no appearance by or on behalf of the Respondent. Mr MacRae told the Tribunal that the Respondent used to live in the Property with her partner and family but now lived there alone. He said it is a three bedroom property. He said that the Respondent is on the list for council housing. He said that there had been a small shortfall in the rent last month but it did not cause the Applicant concern. He said that the bulk of the rent is paid by the local authority. Mr MacRae said that the Applicant intends to sell the Property once they have possession. He said that there had been no issues as regards the conduct of the tenancy from the Applicant’s point of view.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 20 April 2017.
2. The Respondent had signed the form AT5 on 20 April 2017.
3. The tenancy was for a period of 12 months commencing on 20 April 2017.
4. A Notice to Quit dated 7 February 2023 was served on the Respondent stating that the tenancy would terminate on 19 April 2023.
5. A Notice in terms of Section 33 of the 1988 Act dated 7 February 2023 was served on the Respondent stating that possession of the property was required on 19 April 2023.
6. The tenancy reached its *ish* on 19 April 2023 and is not continuing by tacit relocation.
7. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy and that a Section 33 Notice and Notice to Quit had been served on the Respondent giving two months' notice that the Applicant

required possession of the Property. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order

### **Decision**

The Tribunal grants an Order for possession of the Property.

### **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.**



**Legal Member**

**Date : 12 October 2023**