

Housing and Property Chamber
First-tier Tribunal for Scotland



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

FTS/HPC/EV/23/3497

Order granted on 10 January 2024 in absence of Respondent

Property: 13 Hill Street, Selkirk, TD7 4LU

Parties:

Mr M J Felstead and Mrs H Felstead, spouses, residing together at 3 Chandler Crescent, Edinburgh EH6 7AX (“the Applicants”)

Mr Steven Holgate, residing at 13 Hill Street, Selkirk, TD7 4LU (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988.

Background

The Applicants sought recovery of possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). On 03 October 2023 the Applicants had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, Forms AT5 and AT6, a Notice to Quit and s.33 notice both dated 14/07/2023, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the Applicants are heritable proprietors of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 2.00pm on 10 January 2024. The Applicants were not present but they were represented by Mr S Janus, solicitor, of Collie & Co, solicitors. The Respondent was neither present nor

represented. The hearing was delayed to allow sufficient time for the Respondent to participate, but there was no appearance by or on behalf of the Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short-assured Tenancy Agreement for the Property dated 27 November 2012. The lease initially ran from 30 November 2012 to 30 May 2013.
2. The rent in terms of the Tenancy Agreement was £300 per month.
3. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
4. A notice to quit and a s.33 notice were served on the Respondent (by registered mail) on 18 July 2023. The tenancy is a short-assured tenancy, and the respondent received the notice to quit and the s.33 notice timeously. The s.33 notice brought the tenancy to an end on 30 September 2023.
5. The Applicants sought recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988 because the short-assured tenancy had been brought to an end on 30 September 2023 by the service of the s.33 notice.
6. The Respondent offers no resistance to this application. The Respondent received timeous notice of this case management discussion.
7. The Respondent has chosen not to provide details of his circumstances. As far as the Applicants are aware, the Respondent is single and has no dependents. He is employed and is not in receipt of state benefits. It is not argued that it is unreasonable to grant an order for repossession of the Property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the Property.
8. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the Property. The finite time for occupancy of the property as a short-assured tenancy has come to an end.
9. The Respondent has no competent answer to the application for repossession.

Reasons for the Decision

10. The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The tenancy was a short-assured tenancy. Correct notice was given which brought the short-assured tenancy to an end on 30 September 2023. The basis for possession set out in s.33 of the 1988 Act is established. The Respondent offers no stateable defence to the application. The finite time for

occupancy of the Property as a short-assured tenancy has come to an end. For these reasons, and in all the circumstances, the Tribunal determined that it was reasonable to grant an Order for possession.

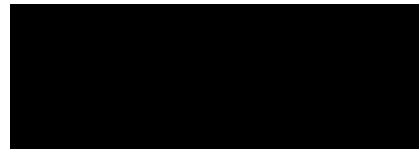
Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession.

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.

10 January 2024



Legal Member