



**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/23/4209

Re: Property at 60 Crofton Avenue, Croftfoot, Glasgow, G44 5HZ (“the Property”)

Parties:

**Mrs Joanne O’Connell, C/O Angel Homes, Main Street, The Village, East Kilbride,
G74 4JH (“the Applicant”)**

**Mr Ian McPhee, 60 Crofton Avenue, Croftfoot, Glasgow, G44 5HZ (“the
Respondent”)**

Tribunal Members:

Nicola Irvine (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant is entitled to the Order sought for
recovery of possession of the property.**

Background

1. The Applicant submitted an application under Rule 66 for an order to evict the Respondent from the property.
2. By decision dated 27 December 2023, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Tribunal intimated the application to the parties by letter of 24 January 2023 and advised them of the date, time and conference call details of today’s CMD. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the

procedure to have been fair. The Respondent was invited to make written representations by 14 February 2024.

The case management discussion

2. The CMD took place by conference call. The Applicant was represented by Mrs Laura Simpson. The Respondent failed to join the conference call and the discussion proceeded in his absence. The Applicant's representative explained that the tenancy was terminated at the ish date by service of the notice to quit and notice in terms of section 33 of the Housing (Scotland) Act 1988. The Respondent has lived in the property since 2016, initially with his wife and 3 children. He currently lives in the property with 2 of his children. It is believed that the Respondent has found the management of the tenancy difficult and the Applicant has been patient in trying to assist the Respondent. That is despite the fact that rent arrears of £12,000 have accrued. However, neighbours have made complaints about the Respondent and in particular, the condition in which he has kept the property. The local authority has also been in touch with the Applicant about these complaints. The Applicant's representative has been maintaining contact with the Respondent and has been advised that the local authority has identified alternative accommodation for the Respondent and his family. The Applicant's representative moved for an eviction order to be granted and submitted that it was reasonable to grant the order.

Findings in Fact

3. The parties entered into a short assured tenancy which commenced 21 December 2016.
4. The Applicant served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by recorded delivery on 17 May 2023.
5. The short assured tenancy had reached its ish.
6. Tacit relocation was not operating.
7. No further contractual tenancy is in operation.

Reason for Decision

8. The Tribunal proceeded on the basis of the documents and the submissions made at the CMD. The Respondent failed to lodge any written representations and failed to participate in the CMD. The Tribunal took account of the fact that the Respondent had accrued rent arrears of £12,000 which equates to 22 months' rent. The photographs lodged show that the outside of the property is in very poor condition and represents a nuisance to neighbours. Copy emails have also been lodged from neighbours, setting out their complaints. The

tenancy therefore appeared to be unsustainable by the Respondent. The information before the Tribunal was to the effect that alternative accommodation has been identified for the Respondent. The Tribunal was satisfied that the conditions of section 33 had been met and that it was reasonable in the circumstances to grant the order evicting the Respondent from 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/Chair

12 March 2024
Date
