



**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/22/2403

**Re: Property at 28 Lyoncross Avenue, Barrhead, Glasgow, G78 2SR (“the
Property”)**

Parties:

**Mrs Susan Lynagh, 3 McKelvie Crescent, Barrhead, Glasgow, G78 1LY (“the
Applicant”)**

**Mr Sean McDaid, 28 Lyoncross Avenue, Barrhead, Glasgow, G78 2SR (“the
Respondent”)**

Tribunal Members:

George Clark (Legal Member) and Mary Lyden (Ordinary Member)

Background

By application, received by the Tribunal on 20 July 2022, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy.

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 17 November 2014 and, if not terminated on 17 May 2015, continuing on a monthly basis until ended by either Party. The Applicant also provided a copy of a Form AT5 Notice dated 16 November 2014, a Notice given under Section 33 of the 1988 Act and a Notice to Quit, both dated 5 May 2022, with proof of delivery of both Notices by sheriff officer on 10 May 2022. The Notice to Quit required the Respondent to vacate the Property by 17 July 2022 and the Section 33 Notice also required her to remove by that date.

On 14 September 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 5 October 2022. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 25 October 2022. The Applicant was present. The Respondent was not present or represented.

The Applicant told the Tribunal that her reason for seeking an Order for Possession is a change in her personal circumstances which means that she requires, for financial reasons, to sell the Property. Her husband has been diagnosed with a chronic disorder which has resulted in his having to reduce his working week to four days and it is possible that he might, for health reasons, have to take early retirement, with the consequential further significant reduction in the family's income. They have three children living at home, two of whom are still financially dependent on the Applicant and her husband, one being at secondary school and the other being at University. The Applicant understands that the Respondent has been in contact with the Homelessness Unit of the local authority, with a view to being re-housed. The present rent is £350 per month and there are no rent arrears. The Respondent occupies the Property on his own.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.

The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given.

The Tribunal considered carefully all the evidence before it, in particular, the evidence of the Applicant relating to her husband's chronic health disorder and its actual and potential impact on the family's finances. The Tribunal decided that it, in the circumstances, it was reasonable 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.

George Clark

Legal Member/Chair _____

Date: 25 October 2022