



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/22/1273

Re: Property at 3 Northfield Court, West Calder, EH55 8DS (“the Property”)

Parties:

Mr Peter Williamson, Mrs Anne Williamson, 15 Raw Holdings, East Calder, West Lothian, EH53 0JA (“the Applicants”)

Mr Umang Mundepi, Mrs Kamini Mundepi, 3 Northfield Court, West Calder, EH55 8DS (“the Respondents”)

Tribunal Members:

Fiona Watson (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondents for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

- Background
 1. An application was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondents upon termination of a short assured tenancy agreement.
- The Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 24 August 2022. The Applicants were represented by their letting agent, Mr McQueenie of Mavor and Company. There was no appearance by or on behalf of the Respondents. The application had been intimated on the Respondents by Sheriff Officer on 25 July 2022. The Tribunal was accordingly satisfied that the Respondents had

been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondents' absence.

3. The Applicants' representative moved for the order for repossession to be granted as sought. The parties had entered into a Short Assured Tenancy Agreement which commenced 23 January 2014. The Applicants had served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") on the Respondents by Sheriff Officer on 14 September 2021. The Respondents had failed to remove from the Property and continued to reside therein. The Applicants required repossession of the Property as they wished to sell the Property. They had notified the Respondents of their intention to sell three or four years ago. The Respondents had originally indicated that they would wish to purchase the Property from the Applicants, but they are not in a position to be able to do so now. The Respondents are believed to own a local fast-food restaurant. The Respondents had indicated to the Applicants that they have attempted to obtain alternative accommodation in the local area, but have been unable to find anything suitable. The Applicants have been trying to assist them by sending them details of local properties as they come up for let. The Property is a two-bed flat situated above a commercial premises.

- Findings in Fact

4. The Tribunal made the following findings in fact:

- (i) The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 23 January 2014. The Agreement stated that the start date was 23 January 2014 and the end date was 24 July 2014. Thereafter, if the Agreement is not brought to an end by either party it will run on a monthly basis until ended by either party giving two months' notice;
- (ii) A Notice to Quit and notice under section 33 of the 1988 Act were served on the Respondents on 14 September 2021 by Sheriff Officer;
- (iii) The Notice to Quit and notice under section 33 of the 1988 Act required the Respondents to remove from the Property by 24 March 2022;
- (iv) The Respondents had failed to remove from the Property and continued to reside therein.
- (v) The Applicants wish to repossess the Property in order to sell same.

- Reasons for Decision

5. The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met: namely that the tenancy had reached its end; tacit relocation was not operating; a notice had been served in terms of that section giving at least 6 months' notice; and no further contractual tenancy was in existence.
6. The Tribunal was satisfied that it was reasonable to grant the Order sought. The Respondents had known for a number of years that the Applicants intended to sell the Property. The Tribunal was satisfied that the Applicants had taken steps to try and engage with the Respondents and try to assist them with finding alternative accommodation. The Applicants are the heritable proprietors of the Property and entitled to sell same. In the absence of any representations by

the Respondent to the contrary, the Tribunal was satisfied that it was reasonable to grant the Order.

- Decision
7. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondents for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

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.

Fiona Watson



Legal Member/Chair

Date: 24 August 2022