



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 (Act)

Chamber Ref: FTS/HPC/EV/22/3423

Re: Property at 65 Moorfoot Avenue, Paisley, PA2 8AB (“the Property”)

Parties:

Mr Alan Lilley, 244 Millfield Hill, Northbarr, Erskine, PA8 6JL (“the Applicant”)

Mr Awa Obasi, Miss Claire Julie Petrie, 65 Moorfoot Avenue, Paisley, PA2 8AB (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted but that execution of the order should be postponed to 30 June 2023.

Background

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents:

1. Application received 16 September 2022;
2. SAT commencing 13 October 2014 and AT5;
3. Notice to Quit dated 30 June 2022;
4. Section 33 Notice dated 30 June 2022;
5. Email serving Notice to Quit and Section 33 Notice dated 30 June 2022;
6. Section 11 Notice with proof of service by email on 15 September 2022;

7. Respondents' Written Representations dated 12 January 2023.

Case Management Discussion (CMD)

The Applicant did not appear but was represented by his Letting Agent Mr Robert Downie. The Respondents appeared and represented themselves.

Mr Downie confirmed to the tribunal that the Applicant's intention was to sell the Property with vacant possession. He originally had 10 Properties and was progressively selling them off about 1 per year. The Properties provided an income for the Applicant and his wife.

The Respondents informed the Tribunal that they had 2 young children 7 and 9 both of whom attended local schools. Both Respondents were in employment and had been actively pursuing alternative accommodation with the local authority, housing associations and private sector landlords without any success.

Decision and Reasons

The Tribunal then considered the eviction application before it.

The Tribunal considered the oral and documentary evidence from the Parties and in so far as material made the following findings in fact:

1. The Parties let the subjects under an SAT commencing 13 October 2014;
2. An AT5 had been served on the Respondent prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served on 30 June 2022;
4. Section 11 Notice had been served on the local authority;
5. The SAT had reached its term and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicant had given the Respondents notice that he required possession;
9. The Applicant wished to sell the Property;
10. The Respondents had 2 young children 7 and 9 both of whom attended local schools. Both Respondents were in employment and had been actively pursuing alternative accommodation with the local authority, housing associations and private sector landlords without any success.

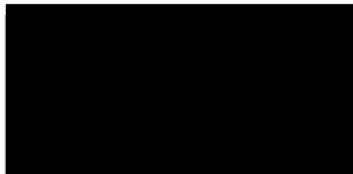
The Tribunal considered all of the evidence and submissions. The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal were satisfied that the Applicant intended to sell the Property. The Tribunal were also satisfied that the Respondents were trying but having difficulties in sourcing alternate accommodation. Granting the order would occasion further stress, anxiety and disruption to the Respondents and their children. The Tribunal sought to balance the competing interests of the Parties and determined that it would be reasonable to grant the order but to postpone execution of the order to 30 June 2023 under Rule 16A of the Tribunal Procedure Rules. This

would allow the Respondents further time to source alternate accommodation. The Tribunal did not require to hear any further evidence.

The Tribunal granted the application for eviction and recovery of 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.



20 February 2023

Legal Member/Chair

Date