



**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/23/0175**

**Re: Property at 74 Hollowglen Road, Glasgow, G32 0DR (“the Property”)**

**Parties:**

**Mr Joseph O'Conner, 28 Northcalder Place, Glasgow, G71 7TL (“the Applicant”)**

**Mr William McLean, 74 Hollowglen Road, Glasgow, G32 0DR (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Elizabeth Dickson (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 20 March 2023, a Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 12 March 2023. Letters were issued on 23 March 2023 informing both parties that a CMD had been assigned for 27 April 2023 at 10am, which was to take place by conference call. 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 13 April 2023. No written representations were received by the Tribunal.

### **The case management discussion**

4. The CMD took place by conference call. The Applicant was represented by Mr Livingstone. The Respondent did not join the conference call and the discussion proceeded in his absence. The Applicant's representative explained that the Respondent lives alone at the property and there have not been any issues with him as a tenant. The Applicant's circumstances have changed in respect that he retired on medical grounds and needs to sell the property in order to supplement his pension. This is the only rental property owned by the Applicant. The Applicant intends to renovate the property and sell it. The Applicant's representative visited the Respondent at home at the of last year. He assisted the Respondent in completing an application for alternative accommodation. The Respondent has been in touch with the local authority but has been told that they will not treat him as homeless unless and until an order has been granted, evicting him from the property. It was submitted that in the circumstances, it was reasonable to grant an order evicting the Respondent from the property.

### **Findings in Fact**

5. The parties entered into a short assured tenancy which commenced 26 January 2010.
6. The Applicant's representative served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by recorded delivery on 21 October 2022.
7. The short assured tenancy had reached its ish.
8. Tacit relocation was not operating.
9. No further contractual tenancy is in operation.

### **Reason for Decision**

10. The Tribunal proceeded on the basis of the documents and the submissions made at the CMD. The Respondent did not participate in the CMD or submit any written representations. 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. Accordingly, the Tribunal granted the order for eviction.

## **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.**

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**Legal Member/Chair**

**27 April 2023**

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**Date**