



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 (“the Act”) and Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/22/2853

Re: Property at 11/3 Moncrieff Terrace, Edinburgh, EH9 1NB (“the Property”)

Parties:

Mr Paul Mowat and Mrs Joan Mowat, 5 Addiscombe Road, Cliftonville, Kent, CT9 2SF (“the Applicants”) per their agents, Trinity Factoring Services Ltd, 209-211 Bruntsfield Place, Edinburgh, EH10 4DH (“the Applicants’ Agents”)

Mr Alexander Peddie, 11/3 Moncrieff Terrace, Edinburgh, EH9 1NB (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for eviction and possession be granted.

Background

1. By application received between 15 August 2022 and 12 September 2022 (“the Application”), the Applicants’ Agents applied to the Tribunal for an Order for possession of the Property. The Application comprised a copy of a short assured tenancy agreement between the Parties, copy Notice to Quit in terms of Section 33 of the Act together with proof of service and copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Edinburgh City Council, being the relevant local authority.
2. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 6 January 2023 at 10.00 by telephone conference.

3. Prior to the CMD, the Applicants' Agents submitted written representations outlining a history of the tenancy between the Parties and evidencing the works which the Applicants proposed to carry out at the Property.

CMD

4. The CMD took place on 6 January 2023 at 10.00 by telephone conference. The Applicants attended but did not take part and were represented by Ms. Rachel MacDonnell of the Applicants' Agents. The Respondent did not take part and did not submit any written representations.
5. On behalf of the Applicants, Ms. MacDonnell confirmed the Order sought and confirmed that although the tenancy had been brought to an end on 12 August 2022, the Respondent remained in the Property.
6. With reference to the Application and the written submissions, Ms. MacDonnell submitted that the Applicants had made the Respondent aware at the beginning of 2020 that they required to recover possession of the Property as they intended to upgrade it. Ms. MacDonnell explained that the Covid-19 pandemic delayed this intention. She explained further that the Applicants via the Applicants' Agents had provided the Respondent with advice and information to assist him to find alternative accommodation and submitted that the Applicants had regard to the fact that the Respondent was a long term tenant and had taken his settled residence in the Property into account in their dealings with him.
7. With regard to the Respondent's personal circumstances and in response to questions from the Tribunal. Ms. MacDonnell advised the Tribunal that, as far as she is aware, the Respondent is a single man in his 40s, that there has not been any issues with his ability to pay the rent due for the Property and that there appears to be availability of alternative accommodation affordable to him, and this had been brought to his attention but there did not appear to have been any follow through from the Respondent.

Findings in Fact.

8. From the Application, the documents lodged and the CMD, the Tribunal made the following findings in fact:-
 - i) There was a short assured tenancy of the Property between the Parties which was brought to an end on 12 August 2022 by service of a valid Notice to Quit and that in terms of Section 33 of the Act;
 - ii) The Respondent did not remove from the Property on 12 August 2022 and has remained in the Property since;
 - iii) The Applicants require possession of the Property in order to refurbish and upgrade it;
 - iv) The Respondent is a single man with no apparent additional needs and is able to pay rent;
 - v) Alternative rented accommodation is likely to be available for the Respondent to rent.

Issue for the Tribunal.

9. Having found that the statutory provisions for the termination of the tenancy have been complied with, the issue for consideration by the Tribunal is to determine if it is reasonable to grant the Order.

Decision and Reasons for the Decision

10. The Tribunal had regard to the whole circumstances of the matter. Notwithstanding the fact that the Application is not opposed by the Respondent, the Tribunal had regard to the fact that he has resided in the Property for a considerable time. The Tribunal had regard to the Applicants' position that they require to upgrade that Property and took account of the fact that the Applicants had given the Respondent in excess of two years prior notice that it was their intention to recover possession of the Property for this purpose. The Tribunal had regard to the personal circumstances of the Respondent as advised to it and took the view that the Respondent would be able to secure affordable alternative accommodation. Accordingly, in all the circumstances, the Tribunal found that it is reasonable to grant the Order sought.

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.

Karen Moore

Legal Member/Chair

Date

6 January 2023