



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/22/3272

Re: Property at 62 Whitehaugh Avenue, Paisley, PA1 3SS (“the Property”)

Parties:

Miss Zhan Zhang, 52 Arkleston Road, Paisley, PA1 3TH (“the Applicant”)

Miss Kimberley Kelly, 62 Whitehaugh Avenue, Paisley, PA1 3SS (“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 16 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 21 March 2023. Letters were issued on 24 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 14 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 Ms Gill. The Respondent did not join the conference call and the discussion proceeded in her absence. The Applicant's representative explained that the Respondent lives with her adult daughter. The Applicant's representative recently made contact with the Respondent to undertake an inspection. The Respondent indicated that although she had been in contact with the local authority, no alternative accommodation had been identified for her. This property is the only rental property owned by the Applicant. The Applicant has moved back to the UK and is living in rented accommodation. The Applicant intends to sell the property to enable her to buy a new home to live in. It was submitted that in the circumstances, it was reasonable to grant an order evicting the Respondent from the property.

Findings in Fact

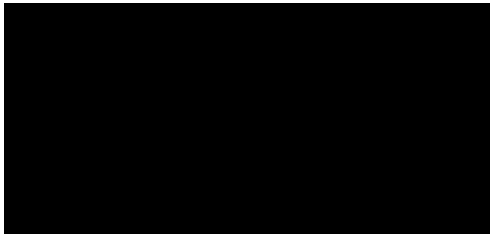
5. The parties entered into a short assured tenancy which commenced 30 September 2016.
6. The Applicant's representative served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by recorded delivery on 22 February 2022.
7. The short assured tenancy had reached its end.
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 lodged and the submissions made at the CMD. The Respondent did not participate in the CMD or submit any written representations. The Tribunal noted from the papers that the Respondent contacted the Applicant in September 2022 to advise that she had been in contact with the local authority. She had been advised that she should remain living in the property unless and until an eviction order was granted. 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.



Legal Member/Chair

Date

27 April 2023