



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/23/3130

Re: Property at 103 Barclay Way, Knightsridge, LIVINGSTON, West Lothian, EH54 8HA (“the Property”)

Parties:

Mrs Fiona Feltham, 44 Clement Rise, Dedridge, Livingston, West Lothian, EH54 6JY (“the Applicant”)

Mr William McPherson, 103 Barclay Way, Knightsridge, LIVINGSTON, West Lothian, EH54 8HA (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and David Fotheringham (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Possession against the Respondent.

1. This is an application under Section 33 of the Housing (Scotland) Act 1988, Ground 1, Schedule 5 for an Order for possession.
2. The Applicant is the owner of the property. The Respondent is the Tenant.
3. A two-member Case Management Discussion (CMD) took place at 2pm on 18 December 2023 by teleconference. The Applicant and Respondent were present and unrepresented. There were no issues with sound and connectivity.
4. The Applicant informed us that she needs to move into her property as she has nowhere else to stay. She was staying with a friend along with her husband but this arrangement did not work out. She and her husband have moved in with her mother who lives in a one-bedroom bungalow. She sleeps beside her mother and her husband sleeps on the couch. Her personal belongings are not

kept in one place which adds to the stress that she is under. She has been in touch with the local authority however they cannot help because she has a property.

5. The Respondent understood her plight but also expressed the difficulty he is in. He has been to the local authority housing department but they cannot help him until such time as an eviction order is granted. He lives alone and suffers from COPD. The property has not been adapted.
6. Having regard to all the information before us, individually and together, we were satisfied that the making of an Order for Possession was reasonable in all of the circumstances. The Respondent will be entitled to housing from the local authority. The cost-of-living regulations mean that he cannot be evicted before 31 March 2024 or before six months from the date of the granting of this order, should the date to be extended.
7. Whilst we understand the difficulty for both parties, we have taken into account that the Applicant owns the property, is living in unsuitable accommodation which is overcrowded and is entitled to live in her property. She will not qualify for housing under the homeless persons legislation as she owns a property whereas the Respondent is entitled to housing under the homeless persons legislation. This fact tipped the balance in the Applicant's favour.
8. Accordingly, the Order was granted.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.



Legal Member/Chair

18 December 2023

Date