



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

Reference number: FTS/HPC/EV/23/2721

Order granted on 11 December 2023

Property: Flat 0/2, 279 Langside Road, Glasgow, G42 8XX

Parties:

Mr Mohammed Waseem Shakeel Ali, residing at flat 3/2, 430 Tantallon Road, Glasgow, G41 3HR ("the Applicant")

Ms Parveen Akhtar, residing at Flat 0/2, 279 Langside Road, Glasgow, G42 8XX ("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)
Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988.

Background

The Applicant sought recovery of possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act"). On 6 September 2023 the Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to Quit and s.33 notice both dated 25/04/2023, together with sheriff officers execution of service dated 26 April 2023, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 2.00pm on 11 December 2023. The Applicant was present and represented by Mr J McHugh, solicitor, of Austin Lafferty Ltd. The respondent was represented by Mr H Joseph, solicitor.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short-assured tenancy Agreement for the Property dated 28 June 2016. The lease initially ran from 28 June 2016 to 28 December 2016.
2. The rent in terms of the Tenancy Agreement was £310 per month.
3. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
4. A notice to quit and a s.33 notice were served on the Respondent (by sheriff officers) on 26 April 2023. The tenancy is a short-assured tenancy and the respondent received the notice to quit and the s.33 notice timeously. The s.33 notice brought the tenancy to an end on 28 June 2023.
5. The Applicant sought recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988 because the short-assured tenancy had been brought to an end on 7 November 2019 by the service of the s.33 notice.
6. The applicant is 30 years of age. He had been living with his partner, but that relationship ended last year. They have an 18 month old child. The property is the only property the applicant owns. Separation from his partner has rendered the applicant homeless. He needs the property as his own place to live. Once he moves back into the property, he will be able to enjoy residential contact to his son there. A mortgage is secured over the property.
7. The respondent lives alone. The applicant can apply to the local authority for social housing.
8. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property. The finite time for occupancy of the property as a short-assured tenancy has come to an end.
9. The respondent has no competent answer to the application for repossession.

Reasons for the Decision

10. The applicant's solicitor says that the application is vexatious because it is alleged that the applicant harassed the respondent on 10 April 2023. The applicant denies that allegation. We find that we do not need to make any enquiry into that allegation because it has no relevance to this application for repossession, which commenced when a notice to quit was served on 26 April 2023.

11. The respondent's solicitor says there is a defect in service of the s.33 notice. The notice was served by sheriff officers. There is no merit in that argument.

12. The respondent's solicitor says that the notice to quit, the s.33 notice, and perhaps this application should all have been translated into Urdu for the respondent. The respondent's solicitor was unable to cite any authority to support his argument, other than to tell us that it was "*commonsense*". There is no requirement to have any of the documents translated.

14. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property. The finite time for occupancy of the property as a short-assured tenancy has come to an end. The test of reasonableness is met.

15. The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The tenancy was a short-assured tenancy. Correct notice was given which brought the short-assured tenancy to an end on 28 December 2023. The basis for possession set out in s.33 of the 1988 Act is established. The respondent offers no stateable defence to the application. The finite time for occupancy of the property as a short-assured tenancy has come to an end. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for 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.

P. Doyle

11 December 2023

Legal Member