



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/23/1804

Re: Property at 9 Millbank Square, Whitburn, West Lothian, EH47 0HE (“the Property”)

Parties:

Mrs Carol Mallon, Mr Peter Mallon, 8 Glenshee, Whitburn, West Lothian, EH48 8NY (“the Applicants”)

Ms Clare Honeyman, 9 Millbank Square, Whitburn, West Lothian, EH47 0HE (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and James Battye (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicants submitted an application under Rule 66 for an order to evict the Respondent from the property.
2. By decision dated 16 August 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. Letters were issued on 27 October 2023 informing both parties that a CMD had been assigned for 30 November 2023 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make

a decision today on the application. The Respondent was invited to make written representations by 17 November 2023.

4. On 28 November 2023, the Tribunal received written representations from the Respondent, in which she indicated that she secured alternative accommodation on 24 November 2023.

The case management discussion

5. The CMD took place by conference call. The Applicants were represented by Ms Shirley Hepworth. The Respondent joined the conference call and represented herself. The Applicants' representative explained that although the Respondent has secured alternative accommodation, the Applicants still sought an order for eviction, given that the keys have not yet been returned. The Respondent explained that she secured alternative accommodation on 24 November 2023 and has moved most of her belongings. However, there is still some rubbish in the property which she is yet to remove. The Respondent did not oppose the application for an order for eviction.

Findings in Fact

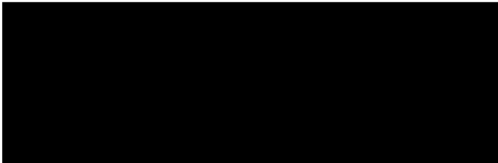
6. The parties entered into a short assured tenancy which commenced 28 August 2013.
7. The Applicants' representative served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by personal service on 28 November 2022.
8. The short assured tenancy had reached its end.
9. Tacit relocation was not operating.
10. No further contractual tenancy is in operation.

Reason for Decision

11. The Tribunal proceeded on the basis of the documents and the submissions made at the CMD. The Respondent did not oppose the application. 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

30 November 2023

Date