



**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/23/2982

Re: Property at Flat 1-1 6 Hyndland Avenue, Glasgow, G11 5BW (“the Property”)

Parties:

**Mrs Margaret Hayworth, 1 Bronte Drive, Jackton, East Kilbride, Glasgow, G75
8YL (“the Applicant”)**

**Mrs Elisabeth Hogger, Flat 1 6 Hyndland Avenue, Glasgow, G11 5BW (“the
Respondent”)**

Tribunal Members:

Graham Harding (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order for possession
of the property.**

Background

1. By application dated 29 August 2023 the Applicant’s representatives, HAP Lettings, Glasgow, applied to the Tribunal for an order for possession of the property in terms of Section 33 of the Housing (Scotland) Act 1988. The Applicant’s representatives submitted a copy of the tenancy agreement, Form AT5, Section 33 Notice and Notice to Quit with Sheriff Officer’s Certificate of Service and a Section 11 Notice with email in support of the application.
2. By Notice of acceptance dated 30 October 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 24 November 2023.

4. By email dated 12 January 2024 the Applicant submitted further written representations to the Tribunal.

The Case Management Discussion

5. A CMD was held by teleconference on 23 January 2024. The Applicant attended in person supported by her husband and represented by Mr Josh Hardy from the Applicant's representatives. The Respondent did not attend nor was she represented. The Tribunal being satisfied that proper intimation of the date and time of the CMD had been given to the Respondent determined to proceed in her absence.
6. Mr Hardy confirmed that the parties had entered into a short assured tenancy that had commenced on 5 June 2015 and continued from month to month until terminated on giving two months' notice. Mr Hardy explained that in February 2023 he had contacted the Respondent to advise her that it was the Applicant's intention to terminate the tenancy as the Applicant intended to sell the property. He went on to say that a Section 33 Notice and Notice to Quit were served on the Respondent by Sheriff officers on 8 June 2023 giving the Respondent notice that she had to remove from the property by 10 August 2023.
7. Mr Hardy said that the Respondent had said she would not move out of the property until the Tribunal granted an order for her removal.
8. Mr Hardy confirmed that a Section 11 Notice had been sent to Glasgow City council by email on 25 August 2023.
9. Mr Hardy went on to say that there had been no recent communication with the Respondent but that he had arranged a meeting between the Applicant and the Respondent in about October or November 2023 when an inspection of the property had been carried out.
10. The Applicant referred the Tribunal to her email of 12 January and confirmed that her mortgage over the property would increase from March 2024 to £88438 per month and that in addition she had to pay property factors about £300.00 per quarter and letting agents' fees of about £100.00 per month plus other outgoings for insurance and gas safety, PAT tests, Legionella tests and repairs. The applicant explained that given the rent was only £850.00 per month it was not economic to retain the property and she required possession in order that it could be sold.
11. The Applicant said that she was retired and had now sold the other flats she had owned and that it had always been her intention to retire from the as she would be 66 this year.
12. In response to a query from the Tribunal Mr Hardy said that the Respondent was an elderly lady who had always paid her rent and maintained the property in good order. He said that he thought the property was not particularly well

suitied for the Respondent as she was now quite elderly and the property was located on the second floor and the Respondent was partially sighted. He said he was aware that the council would not take steps to rehouse the Respondent until the Tribunal granted an order for possession.

Findings in fact

13. The parties entered into a Short Assured Tenancy that commenced on 9 June 2015 and endured for a period of six months until 9 December 2015 and continued from month to month thereafter.
14. The Applicant wishes to sell the property in order to pay off the Standard Security over the property.
15. The Applicant's mortgage will increase in March 2024 from £191.03 to £884.38 per month.
16. The Applicant also has to pay factor's fees for the property as well as letting agent's fees and other outlays.
17. From March 2024 the income received by way of rent for the property will be less than the Applicant's monthly outgoings for the property.
18. The Applicant has retired and wishes to cease being a landlord.
19. The Respondent has paid her rent to date and maintained the property in good order.

Reasons for Decision

20. The Tribunal was satisfied from the written representations and documents together with the oral submissions that the parties entered into a Short Assured Tenancy that commenced on 9 June 2015 for a period of six months and from month to month thereafter. The Tribunal was also satisfied that a valid Notice to Quit and Section 33 Notice had been served on the Respondent by Sheriff Officers on 8 June 2023 and that proper intimation of the proceedings had been given to Glasgow City council by way of a Section 11 Notice by email on 25 August 2023.
21. The Tribunal required to be satisfied that it was in the circumstances reasonable to grant the order sought. In reaching its decision the Tribunal took account of the fact that although the Respondent had been given the opportunity to submit written representations and to attend the CMD she had done neither. The Tribunal also took account of the financial difficulty that the Applicant would suffer given the very substantial increase in her mortgage together with the other costs of managing and maintaining the property. Given that the Applicant had retired and wished to cease from being a landlord and given that it was not economic to continue to rent out the property the Tribunal was satisfied that in the circumstances it was reasonable to grant the order sought. The Tribunal

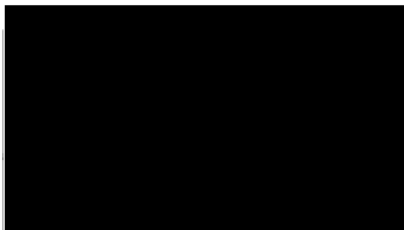
noted that the order would be subject to the terms of the Cost of Living (Tenant Protection) (Scotland) Act 2022 and the earliest an order would be enforced would be after 31 March 2024.

Decision

22. The Tribunal being satisfied that it had sufficient information before it to make a decision without the need for a hearing finds the Applicant entitled to an order for possession of the property and the removal of the Respondent from the property.

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

23 January 2024
Date