



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/23/2667

Re: Property at Flat 1, 4 Thornbridge Court, Falkirk, FK2 9BG (“the Property”)

Parties:

Dr Jaswinder Singh, 45 Tunnel Wood Road, Watford, WD17 4GD (“the Applicant”)

Mr Fraser Grant, Flat 1, 4 Thornbridge Court, Falkirk, FK2 9BG (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

Background

1. By application, dated 8 August 2023, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy. The application stated that the Applicant wishes to sell the Property.
2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 6 November 2017 and, if not ended on 7 May 2018, continuing on a month to month basis thereafter until terminated by either party. The Applicant also supplied copies of a Form AT5 Notice given on 6 November 2017 and of a Notice given under Section 33 of the 1988 Act and a Notice to Quit, both dated 2 June 2023, and both requiring the Respondent to vacate the Property by 7 August 2023, with proof of delivery of both Notices on 3 June 2023.

3. On 30 November 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 21 December 2023. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 29 January 2024. The Applicant was represented by Mrs Angela O'Rourke of Belvoir Lettings, Falkirk. The Respondent was present.
5. The Applicant's representative told the Tribunal that the Applicant owned two properties that were managed by Belvoir Lettings. He has sold one and is looking to sell the present Property as he wants to exit the rental market. She was not aware of any financial hardship or welfare issues affecting the Applicant.
6. The Respondent told the Tribunal that he lives in the Property with his wife and family. His daughter is 11 and stays with him from Thursday night to Monday. His son is 5 and stays there permanently. His primary school is a short distance away. He has auto-immune diseases, including celiac disease and requires regular appointments with the GP and a paediatrician. The doctor's practice is just around the corner from the Property. The Respondent's parents also live a short distance away and are available to help with child care. He works full-time and his wife works part-time. They contacted the Council when they received the Notice to Quit, but the Council were unable to help them unless that had received an Order for Possession. They are currently on the waiting list for a Council house, as the Property is becoming too small for the family. It has two bedrooms and his daughter is reaching the age at which she should have a separate bedroom. The Respondent would like to move and understood why the Applicant wanted an Order, but he had been told by the Council that he would lose his priority on the housing list if he was deemed to have made himself and his family intentionally homeless. If, however, an Order was made, they would move from Category 2 to Category 1 on the housing list and there was more likelihood of being rehoused in the local area if they were in Category 1.

Reasons for Decision

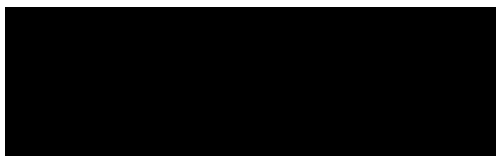
7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
8. Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not

operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.

9. The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given. The remaining matter for the Tribunal to consider was, therefore, whether it would be reasonable to issue an Order for Possession.
10. In arriving at its decision as to whether it would be reasonable to make an Order for Possession, the Tribunal considered carefully all the evidence before it and noted in particular the fact that the Applicant wished to exit the letting market and wanted to sell the second of his rental properties and that the Respondent had indicated that the Property is becoming too small for the family and that their position on the waiting list would improve if they were facing the enforcement of an Order for Possession.
11. Having taken into account all the evidence, written and oral, before it, the Tribunal decided that it would be reasonable to make an Order for Possession of the Property.
12. The application is affected by The Cost of Living (Tenant Protection) (Scotland) Act 2022.

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

29 January 2024

Date