



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/23/4429

Re: Property at 21 Fenwick Drive, Barrhead, G78 2LD (“the Property”)

Parties:

Mr Andrew Crombie, Mrs Lynn Crombie, 39 Millview Meadows, Neilston, G78 3ND (“the Applicant”)

Ms Caroline McLean, 21 Fenwick Drive, Barrhead, G78 2LD (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr G Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession should be granted.

Background

1. This is a Rule 66 application received on 11th December 2023. The Applicant is seeking an order for possession of the Property. The Applicant lodged a copy of the short assured tenancy agreement between the parties that commenced on 9th December 2012 for a period of six months. The Applicant also lodged copy Notice to Quit and section 33 notice dated 3rd and served 5th October 2023 and requiring the Respondent to remove from the Property by 9th December 2023, together with evidence of service, copy section 11 notice with evidence of service, and Form AT5.

The Case Management Discussion

2. A Case Management Discussion took place by telephone conference on 4th April 2024. Both parties were in attendance.
3. The Applicant said he was seeking an order for possession as he wishes to sell the Property, due to financial constraints. It is no longer financially viable to continue being a landlord. Rises in the interest rate has led to his mortgage payments trebling in recent years. The Applicant has also been forced to

retire on medical grounds. The Applicant said the Respondent has been a great tenant and there have been no problems.

4. The Respondent said she was not opposing the order. The Applicant has been a great landlord and she understands his predicament. She has a sixteen-year-old child living with her who is still at school, and now hoping to go to college. She has been in discussion with the local authority and they will not provide her with accommodation unless an order for possession is granted, and she is deemed to be homeless. It was her position that an order was necessary before she could move on with her life and get a permanent home. The Respondent was keen for matters to move on as soon as possible and did not wish to seek any extension to the period before which an order could be executed.

Findings in Fact and Law

5.
 - (i) Parties entered into a short assured tenancy agreement in respect of the Property that commenced on 9th December 2012, for a period of six months.
 - (ii) Notice to Quit and Section 33 Notice were served on the Respondent.
 - (iii) The short assured tenancy has reached its finish date.
 - (iv) The contractual tenancy terminated on 9th December 2023.
 - (v) Tacit relocation is not in operation.
 - (vi) The Applicant has given the Respondent notice that they require possession of the Property.
 - (vii) It is reasonable to grant the order for possession.

Reasons for Decision

6. Section 33 of the Act provides that the Tribunal may make an order for possession if satisfied that the short assured tenancy has reached its finish, tacit relocation is not operating, the landlord has given notice to the tenant that they require possession, and it is reasonable to make the order.
7. The Tribunal considered the Notice to Quit and Section 33 notice had been completed and served correctly. Accordingly, the contractual tenancy has been terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that they require possession of the Property.
8. In considering reasonableness, the Tribunal took into account the circumstances of both parties. The Applicant's circumstances have changed due to medical reasons and the current financial climate, and it is no longer

financially viable to remain as a landlord. The Respondent is keen to move on to a permanent home and will only secure social housing if an order for possession is granted.

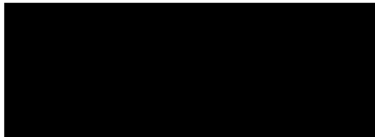
9. In all the circumstances, the Tribunal considered it reasonable to grant the order.

Decision

10. An order for possession of the Property is granted under section 33 of the Housing (Scotland) Act 1988. The order is not to be executed prior to 12 noon on 7th May 2024.

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

Date 4th April 2024