



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/23/4437

Re: Property at 2/L 12 Seton Street, Ardrossan, KA22 8JH (“the Property”)

Parties:

Mr Gerard McCarthy, Mrs Doreen McCarthy, 42 Castlebay Court, Largs, KA30 8DS (“the Applicant”)

Mr Stephen McMullen, 2/L 12 Seton Street, Ardrossan, KA22 8JH (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[2] The Application seeks an Eviction Order under Section 33 of the Act. The Application was accompanied by a copy of the tenancy agreement, the relevant notice to quit and the relevant notice under Section 33 of the Act together with the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 8 April 2024. The Applicant was represented by Ms McDiarmid from

Hovepark Lettings. The Respondent was represented by Ms Tait of Community Housing Advocacy Project. Neither party had any preliminary matters to raise. Ms Tait confirmed that the Respondent was not opposed to the Application and was prepared to leave the Property. He simply wished more time to organise his departure. The Tribunal was asked to grant the Application but to delay the date by which the order might be enforced to a period of two months. This was opposed by Ms McDiarmid and the Tribunal discussed that issue fully with parties.

[4] Having heard from parties, the Tribunal adjourned to consider the Application. Thereafter, the Tribunal made the following findings in fact.

Findings in Fact

- I. The parties entered into a tenancy agreement in terms of which the Applicants let the Property to the Respondent under a Short Assured Tenancy within the meaning of the Act;
- II. The Applicants brought the tenancy to an end by competently serving a valid notice under Section 33 of the Act and a notice to quit.
- III. The Applicants have complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003;
- IV. The Respondent is prepared to leave the Property but wishes more time to organise his departure.

Reasons for Decision

[5] Having made the above findings in fact, the Tribunal granted the Application and made an Eviction Order having concluded that it was reasonable to do so. The Tribunal also decided to delay the date by which the order might be enforced to a period of two months from today's date. The Tribunal felt that allowing further time would help reduce the prospect of the Respondent requiring temporary accommodation.

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

8 April 2024
Date