



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section of the Housing (Scotland) Act 1988 (“the 1988 Act”) and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)**

**Chamber Ref: FTS/HPC/EV/24/0431**

**Re: Property at 14 Grebe Avenue, Inverness, IV2 3TD (“the Property”)**

**Parties:**

**Mr Andrew Sutherland, 33 Ardconnel Terrace, Inverness, IV2 3AE (“the Applicant”)**

**Mrs Catherine Hudson Storey, Ms Ricci Hudson Storey, 14 Grebe Ave, Inverness, IV2 3TD (“the Respondent”)**

**Tribunal Members:**

**Lesley-Anne Mulholland (Legal Member) and Gordon Laurie (Ordinary Member)**

**Decision (in absence of the Respondent)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for an Order for Possession should be granted.**

1. This is an application under Section 33 of the Housing (Scotland) Act 1988 (“the Act”) for possession of the Property on termination of a Short-Assured Tenancy. The application was made in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). Supporting documentation was submitted with the application, including a copy of the Tenancy Agreement, AT5, Notice to Quit, Section 33 Notice and Section 11 Notice to the local authority.

2. The Applicant is the Landlord and owner of the property. The Respondents are the Tenants.
3. A two-member Case Management Discussion (CMD) took place at 2pm on 31 May 2024 by teleconference. The Applicant joined the hearing. The Respondents failed to attend and have not contacted the Tribunal or HMCTS in any way.
4. Mr Sutherland asked that an Order for Eviction be granted. He is 63 years of age and previously worked in the oil and gas sector but gave up due to health difficulties. He wishes to retire and needs to sell the property to achieve some income.
5. He does not want to be a landlord anymore and does not believe that the conditions are favourable to private landlords. He has taken the view that the legislation has made it harder for private landlords to make any profit as expenses cannot be deducted, in general, from the turnover. More and more legislation is being passed which has made it harder and less attractive to remain in business as a landlord.
6. He has seven properties in total and wishes to sell them one at a time as he could not cope with disposing of them all at the same time.
7. The property which is the subject of these proceedings is a house which is the most difficult to maintain. The rest of his properties are flats. There is no mortgage on the property as he has used his savings to discharge the standard security in favour of the bank. He has instructed solicitors to sell the property when it becomes vacant.
8. In relation to the Respondents' circumstances, he informed us that they are mother and son. The son is around 30 years of age. The mother drives a mobility car and he assumes that she has some health problems as the local authority contacted him to establish that this hearing was going ahead and said that they are assessing the 1<sup>st</sup> Respondent for an accessible home as stairs are not good for her.
9. In the event that we were minded to grant the order for eviction, the Applicant very helpfully said that it would not cause him too much of a difficulty if the period of notice before enforcement action could take place was extended further.
10. Having considered all of the information individually and together, we were satisfied that a Short-Assured Tenancy does not give the Respondent the right to remain in the property indefinitely. The Tenancy has been brought to a lawful end. It would not be reasonable to expect the Applicant to be forced to continue as a Landlord when he wishes to retire. It was always his plan to sell up at that point to fund his retirement and reduce the work involved in being a good Landlord.

11. The Local Authority has a duty to find suitable alternative accommodation and will not do so whilst the Respondent remains in the property. The Applicant has already waited a considerable period of time to recover the property and the Respondents have had sufficient notice to find suitable alternative accommodation.
12. The Respondents are seeking alternative accommodation through the local authority and have already applied to them and/or other Housing Associations. The local authority is aware of the Respondents' circumstances and housing needs and the housing application will be progressed once the outcome of this application is known.
13. Given our knowledge of the difficulty local authorities have in finding suitable alternative accommodation, we decided to extend the time limit before enforcement to 60 days from the date of this discussion.
14. In all of the circumstances, we considered that the likely impact on the Respondent of granting the eviction order was outweighed by the impact on the Applicant were the order not to be granted. We were therefore satisfied that it was reasonable to grant the Order.
15. Accordingly, we decided to grant the Order for Eviction.

### **Decision**

An Order for Eviction is granted.

### **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.**

**L Mulholland**

**31 May 2024**

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