



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

Reference number: FTS/HPC/EV/24/0325

Order granted on 14 May 2024

Property: 55 McCallum Court, Armadale, EH48 3QU

Parties:

Ms Laura Stephen, 35 Almondhill Road, Kirkliston EH29 9BN (“the Applicant”)

Ms Fiona Stephen, 55 McCallum Court, Armadale, EH48 3QU (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)
Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988.

Background

The Applicant sought recovery of possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant had lodged with the Tribunal Form E dated 19/01/2024. The documents produced were a Tenancy Agreement dated 04/05/2015, a Notice to Quit and s.33 notice, both served on 12/10/2023, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 2.00pm on 14 May 2024. Both the Applicant and the Respondent were present. Both parties were unrepresented.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short-assured tenancy Agreement for the Property dated 04/05/2015. The lease initially ran to 01/01/2016.
2. The rent in terms of the Tenancy Agreement was £575.00 per month.
3. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
4. A notice to quit and a s.33 notice were served on the Respondent on 12/10/2023. The tenancy is a short-assured tenancy, and the respondent received the notice to quit, and the s.33 notice, timeously. The s.33 notice brought the tenancy to an end on 01/01/2024.
5. The Applicant sought recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988 because the short-assured tenancy had been brought to an end on 01/01/2024 by the service of the s.33 notice.
6. The applicant requires possession of the property because she wants to sell the property. It will be very difficult to sell the property if vacant possession cannot be offered.
7. The Respondent offers no resistance to this application. The Respondent has already applied for local authority housing. An order for repossession of the property will enable the local authority to consider her application for accommodation.
8. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the Property. The finite time for occupancy of the property as a short-assured tenancy has come to an end.

Reasons for the Decision

9. The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The tenancy was a short-assured tenancy. Correct notice was given which brought the short-assured tenancy to an end on 01/01/2024. The basis for possession set out in s.33 of the 1988 Act is established. The Respondent offers no stateable defence to the application. The finite time for

occupancy of the Property as a short-assured tenancy has come to an end. For these reasons, and in all the circumstances, the Tribunal determined that it was reasonable to grant an Order for possession.

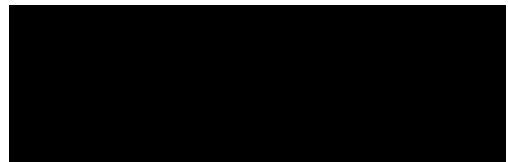
Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession.

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.

14 May 2024



Paul Doyle
Legal Member