



**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/24/0813

Re: Property at 112 Darg road, Stevenston, KA20 3AZ (“the Property”)

Parties:

Mr Kenneth Malloy, 3a Cubrieshaw Drive, West Kilbride, KA23 9DU (“the Applicant”)

Ms Carol Anne Scott, 112 Darg road, Stevenston, KA20 3AZ (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 66 for an order to evict the Respondent from the property.
2. On 10 April 2024, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Tribunal intimated the application to the parties by letter of 24 May 2024 and advised them of the date, time and conference call details of today’s CMD. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the

procedure to have been fair. The Respondent was invited to make written representations by 14 June 2024. No written representations were received.

The case management discussion

4. The CMD took place by conference call. The Applicant represented himself and the Respondent was represented by Ms Andrea Gibson. The Tribunal explained the purpose of the CMD. The Respondent's representative explained that the application was not opposed. The Respondent is in employment and lives alone at the Property. She suffers from some health issues. The Respondent has been in contact with the local authority but has not yet secured alternative accommodation. The Respondent sought a delay in the execution of any order for eviction. The Applicant explained that although he owns other rental properties, this is the only Property he intends to sell. The mortgage rates have increased and the Respondent has incurred substantial rent arrears, in excess of £10,000. As a result of these factors, it is no longer financially viable for the Applicant to retain the Property. There is a repayment arrangement in place to pay the arrears at the rate of £2.50 per week. The Applicant received a payment in respect of the Respondent's universal credit claim, although there is a shortfall.
5. The Tribunal adjourned briefly to consider the information provided by both parties. The Tribunal explained that it found that the tenancy had been brought to an end by the operation of section 33 and that it was reasonable to grant the order. The Tribunal also explained that it exercised its discretion in terms of section 216(4) of the Bankruptcy and Diligence Etc (Scotland) Act 2007 and extended the period of charge specified in section 216(1) of the Act by a period of 5 weeks.

Findings in Fact

6. The parties entered into a short assured tenancy which commenced 12 August 2010.
7. The Applicant served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by sheriff officer on 23 November 2023.
8. The short assured tenancy had reached its end.
9. Tacit relocation was not operating.
10. No further contractual tenancy is in operation.

Reason for Decision

11. The Tribunal proceeded on the basis of the documents and the submissions made at the CMD. The Respondent did not oppose the application. The Tribunal was satisfied that the conditions of section 33 had been met and that it was reasonable in the circumstances to grant the order evicting the Respondent from the property. In light of the Respondent's personal circumstances, the Tribunal was persuaded that it was appropriate to extend the period of charge by 5 weeks.

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.

N Irvine

Legal Member/Chair

1 July 2024

Date