



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/24/0493

Re: Property at 8/4 72 Lancefield Quay, River Heights, Glasgow, G3 8JJ (“the Property”)

Parties:

Angela Buck Property, 620A, Garratt Lawe, London, SW17 0NX (“the Applicant”)

Mr Sadat Agbalajobi, 8/4 72 Lancefield Quay, River Heights, Glasgow, G3 8JJ (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Ms J Heppenstall (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 in the period between 31st January and 8th March 2024. The Applicant is seeking an order for possession of the Property. The Applicant lodged a copy of a short assured tenancy commencing on 14th September 2012 to 14th March 2013 and bi-monthly thereafter. The Applicant also lodged copy Notice to Quit and section 33 notice together with evidence of posting and delivery, copy section 11 notice with evidence of service, Form AT5 and mortgage lender correspondence.

The Case Management Discussion

2. A Case Management Discussion (“CMD”) took place by telephone conference on 1st August 2024. Both parties were in attendance.
3. The Applicant explained she requires to recover possession of the Property to return the Property to the lender. She has been trying to sell the Property for some time. Last year, a sale fell through due to the Property being tenanted. The Applicant said she does not have money to pay the service charge and

insurance for the Property. The rent is £1000 per month, and the mortgage is £880. There is around £200,000 outstanding on the mortgage. The Applicant is living on the state pension with no other means. She cannot afford to continue as a landlord. She has asked the lender to re-possess the Property and she understands they are going through the necessary procedures, although she has not yet received any paperwork in this regard. The Applicant said her difficulties arose due to a significant debt owed to her which was not paid.

4. The Respondent indicated that he does not wish to oppose the order. He has been in the Property for over 12 years and has become attached to it. He has seen a few private lets, but they are not to his taste. He is keen on remaining in the same area. He had hoped to rent a property in the same building as the Property, but this fell through. The Respondent lives alone, is self-employed and has no dependents. The Respondent said his income is variable and it has been difficult to get funds for another private let. He informed the Applicant that he would not be paying the rent from July 2024 onwards, and hopes to put the funds towards a deposit for another property. He said he will pay any outstanding sums when the tenancy ends. The Respondent said he needs to leave the Property and hopes to be out by the end of August. He said he does not wish to remain in the Property. Asked what he would do if the order was granted and he had not secured a private let, the Respondent said he would just have to deal with this, and that he cannot bear to remain in the current position.
5. The Applicant said the Respondent has generally been a good tenant. She had accepted the rent would be late on occasion in the past. She is now having difficulty sleeping and fears she will be made bankrupt. She has an overdraft, which is increasing, as she has to make further payments in respect of the Property.
6. The Tribunal adjourned to consider matters.

Findings in Fact and Law

7.
 - (i) The Applicant is the heritable proprietor of the Property.
 - (ii) Parties entered into a short assured tenancy agreement commencing on 14th September 2012 to 14th March 2013 and bi-monthly thereafter.
 - (iii) Notice to Quit and Section 33 Notice were served on the Respondent.
 - (iv) The short assured tenancy has reached its ish date.
 - (v) The contractual tenancy terminated on 14th September 2023.
 - (vi) Tacit relocation is not in operation.

- (vii) The Applicant has given the Respondent notice that they require possession of the Property.
- (viii) It is reasonable to grant the order for possession.

Reasons for Decision

8. 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.
9. 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.
10. In considering reasonableness, the Tribunal took into account the circumstances of both parties.
11. The Tribunal was satisfied that the Applicant is in extreme financial difficulty and can no longer continue to let the Property. The mortgage has come to the end of its term and the outstanding balance requires to be paid. The Applicant does not have the funds to do this. The Applicant is not in a position to work, at her stage in life, and is unable to sustain the letting of the Property. The Applicant's sleep is affected by the situation with her finances and the Property.
12. The Tribunal took into account that the Respondent has been a good and long-term tenant. The Tribunal took into account that the Respondent does not wish to remain in the Property, cannot bear to remain in the current position, and hopes to secure another private let by the end of August. The Tribunal took into account that the Respondent does not have any dependents who would be affected if an order was granted. The Tribunal took into account that the Respondent is now not paying the rent, which will impact upon the Applicant's already considerable financial problems.
13. In all the circumstances, the Tribunal considered it reasonable to grant the order.

Decision

14. 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 4th September 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.

Helen Forbes

Legal Member/Chair

1st August 2024
Date