



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/24/1595

Re: Property at 82 Carlibar Avenue, Glasgow, G13 4AW (“the Property”)

Parties:

Iona Developments Ltd, 6 Kenmure Road, Glasgow, G46 6TU (“the Applicant”)

Mr Andrew Clark, 82 Carlibar Avenue, Glasgow, G13 4AW (“the Respondent”)

Tribunal Members:

John McHugh (Legal Member) and John Blackwood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the Property would be made in favour of the Applicant.

Background

The Applicant is the heritable proprietor of the Property. The Respondent is the tenant in terms of a short assured tenancy agreement between the Applicant and the Respondent in respect of the Property dated 14 March 2013.

The Applicant has presented an application to the Tribunal dated 8 April 2024. The Applicant wishes to be granted possession of the Property and to evict the Respondent.

The Case Management Discussion

A Case Management Discussion (“CMD”) took place on 28 August 2024 by telephone conference call. The Applicant was represented by its director, Martin Hesketh. The Respondent was neither present nor represented. Mr Hesketh explained that he was in regular touch with the Respondent and that the Respondent

was aware of the CMD. The Tribunal was satisfied that details of the CMD had been intimated by the Tribunal office to the Respondent and resolved to proceed in his absence.

Findings in Fact

The Applicant is the Landlord and the Respondent the Tenant in terms of a short assured tenancy of the Property.

The tenancy was created by a short assured tenancy agreement dated 14 March 2013.

The tenancy had an original termination date of 23 March 2014.

On 23 January 2024, the Applicant served upon the Respondent a Notice to Quit and a Notice in terms of Section 33 of the Act. These intimated that the Applicant required possession of the Property with effect from 23 March 2024.

The Respondent remains in occupation.

The tenancy has reached its ish.

Tacit relocation is not operating.

It would be reasonable to grant the application.

Reasons for Decision

In terms of Section 33 of the 1988 Act, the Tribunal requires to be satisfied that the short tenancy has reached its ish; that tacit relocation is not operating; that the Applicant has given notice stating that it requires possession of the Property and that it is reasonable to grant the application.

The Tribunal has had sight of the short assured tenancy agreement dated 14 March 2013; the Notice to Quit dated 23 January 2024 and the Section 33 Notice dated 23 January 2024 which have been served on the Respondent. The Tribunal is accordingly satisfied in relation to the first three aspects.

As regards the question of reasonableness, the Tribunal has received no submissions suggesting that it would be unreasonable to grant the application.

The Tribunal made enquiries of Mr Hesketh at the CMD. He reported that he had been in regular contact with the Respondent. He was aware that the Respondent was receiving advice on alternative accommodation from a Ms Harkins at the local authority and from a local charity, Turning Point. He advised that the Respondent lives alone although he believed that there have been occasional girlfriends over the years. He reports that the Respondent has no children. He is aware of no specific health issues on the part of the Respondent. Mr Hesketh advises that he had

warned the Respondent around two years ago that it was planned to sell the Property.

Mr Hesketh says that the Applicant intends to sell the Property to fund his own retirement. He is 63 years old and is selling off his property portfolio of which the Property forms a part.

Having regard to all of the above, it appears to the Tribunal that it would be reasonable to grant the possession order.

Decision

An Order granting possession of the Property will be made in favour of the Applicant.

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.

John McHugh

Legal Member/Chair

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28 August 2024

Date