

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/24/0197

Re: Property at 46 Preston Place, GLASGOW, G42 7PW (“the Property”)

Parties:

Mr Akhtar Ali, 9 Brent Avenue, GLASGOW, G46 8JU (“the Applicant”)

Mr Yasar Arafat, 46 Preston Place, GLASGOW, G42 7PW (“the Respondent”)

Tribunal Members:

John McHugh (Legal Member) and Ann Moore (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 4 May 2015.

The Applicant has presented an application to the Tribunal dated 5 January 2024. The Applicant wishes to be granted possession of the Property and to evict the Respondent.

A previous CMD Case Management Discussion (“CMD”) had taken place on 18 July 2024 at which the Applicant was represented. The Respondent was absent. The Tribunal was not at that point satisfied that the Respondent had been given intimation of the CMD and so resolved to continue the CMD to 16 August 2024. A problem with the intimation of telephone arrangements for the CMD scheduled for that date had caused the CMD to instead be continued to 30 August 2024.

The Case Management Discussion

A Case Management Discussion took place on 30 August 2024 by telephone conference call. The Applicant was represented by his solicitor, Danielle Storrie. The Respondent was neither present nor represented. Ms Storrie advised that she was not aware of any contact having been received by her client from the Respondent and she had not received any such contact herself. The Tribunal was satisfied that details of the CMD had been intimated by the Tribunal office to the Respondent, having seen a certificate of intimation by Sheriff Officers dated 19 August 2024, 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 4 May 2015.

The tenancy was for an initial six month term.

On 1 September 2023, 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 4 November 2023.

The Applicant has given notice of the current proceedings to the local authority on 30 November 2023.

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 4 May 2015; the Notice to Quit and the Section 33 Notice both dated 1 September 2023 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 Ms Storrie at the CMD. She understands that the Respondent lives alone, is around 45 years of age. He works as a taxi driver. She is unaware of any health issues. The Applicant believes that the Respondent has a family but that his family have always lived abroad.

As regards the Applicant, he no longer wishes to be a landlord. His wife suffered a stroke earlier in the year but is recovering. He is acting as a full-time carer to his aunt. He intends to transfer the Property to his 23 year old daughter who currently lives with him so that she may use it as her home.

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

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.

Legal Member: John McHugh

Date: 30th August 2024