



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 (Act)

Chamber Ref: FTS/HPC/EV/24/1119

Re: Property at 132 Broompark Crescent, Airdrie, ML6 6GA (“the Property”)

Parties:

Mr Gerard Travers, Miss Sadie Travers, 24 McKenna Drive, Airdrie, ML6 0JF; 4 Lochalsh Place, Airdrie, ML6 8FQ (“the Applicant”)

Miss Amanda Greenaway, 132 Broompark Crescent, Airdrie, ML6 6GA (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted but that execution of the order should be postponed to 10 December 2024.

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 7 March 2024;
2. AT5 and SAT commencing 28 May 2013;
3. Notice to Quit dated 26 October 2023;
4. Section 33 Notice dated 26 October 2023;
5. Royal Mail track and trace receipts dated 28 October 2023;
6. Section 11 Notice and email serving on local authority dated 6 March 2024;
7. Sheriff Officer certificate of service of CMD Notification on 8 August 2024;
8. Respondent’s Written Representations dated 16 August 2024.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 10 September 2024. The Applicants did not participate but were represented by their solicitor, Mr Donnelly. The Respondent participated and represented herself.

The Respondent did not object to the application. She had lodged a detailed written submission. She had been in weekly contact with the local authority since August last year to try and obtain alternative accommodation. The Respondent informed the Tribunal that she lived in the Property with her daughter aged 12 and son aged 19. Her son was at University and her daughter was at the local school. She had lived in the Property for a considerable period of time and spent all her savings on the Property.

The Respondent wished 8-12 weeks delay in execution of any order granted to allow her to obtain priority on the local authority housing list.

The Applicants intended to sell the Property in order to realise the capital as part of their retirement. The First Applicant is 64 and not yet retired, the Second Applicant is retired and this is the Applicants' only remaining rental Property. The Applicants need to sell the Property to help pay off the mortgage on their home and fund their retirement. Terms of engagement have been produced to the Tribunal.

The mortgage costs now exceed the rental income.

Decision and Reasons

The Tribunal considered the oral and documentary evidence from the Parties. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a SAT commencing 28 May 2013;
2. An AT5 had been served prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served on 28 October 2023;
4. Section 11 Notice had been served on the local authority on 6 March 2024;
5. The SAT had reached its term and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicants had given the Respondent notice that they required possession;
9. The Applicants required to recover possession of the Property to sell it and realise the capital for their retirement and to pay off the mortgage on their home;
10. The Respondent did not oppose the eviction order and was in contact with the local authority regarding the provision of suitable alternative accommodation for her and her children;
11. The Respondent wished a delay in the execution of the order to give her time to obtain local authority housing.

The Tribunal considered all of the evidence and submissions.

The Tribunal were satisfied that Rule 66 had been complied with.

The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Respondent did not oppose the order and had been in regular contact with the local authority over the last year regarding provision of alternative accommodation and understood that the grant of the order would give her priority. She simply needed some extra time.

The Applicants needed to sell the Property to fund their retirement and pay off the mortgage on their home.

The Tribunal considered that it was reasonable to grant the order sought and granted the application for eviction and recovery of possession but postponed execution of the order to 10 December 2024 under Rule 16A of the Tribunal Procedure Rules. This would allow the Respondent further time to source alternate accommodation. The Tribunal did not require to hear any further evidence.

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.

Alan Strain

10 September 2024

Legal Member/Chair

Date