



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

Reference number: FTS/HPC/EV/24/2561

Order granted on 11 October 2024.

Re: Property at 25 Burnside Avenue, Polbeth, West Lothian, EH55 8TF (“the Property”)

Parties:

Mr Mark Grant, residing at 72 Salisbury Road, London, W13 9TT (“the Applicant”)

Ms Vicky Newlands, residing at 25 Burnside Avenue, Polbeth, West Lothian, EH55 8TF (“the Respondent”)

Tribunal Members:

**Paul Doyle (Legal Member)
Ahsan Khan (Ordinary member)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988

Background

1. The Applicant sought recovery of possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988. The Applicant had lodged with the Tribunal Form E dated 05/06/2024. The documents produced were a Tenancy Agreement, a Notice to Quit and s.33 notice, both served on 25 March 2024, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

2. A case management discussion took place by telephone conference at 2pm on 11 October 2024. The Applicant was represented by Mr C McQueenie of Mavor & Co (Property Management Company). The Respondent was not present, but she was represented by her partner, Mr G Rollo.

3. Mr Rollo told us that the application is not opposed. The Respondent has applied to the Local Authority for housing, and her application will only be given serious consideration when a repossession order is granted.

Findings in Fact

4. The Tribunal made the following findings in fact:

(i) The Applicant and the Respondents entered into a short-assured tenancy Agreement for the Property dated 30/06/2014. The lease initially ran from 30/06/2014 to 31/12/2014.

(ii) The rent in terms of the Tenancy Agreement was £495 per month.

(iii) The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.

(iv) A notice to quit and a s.33 notice were served on the Respondents on 25/03/2024. The tenancy is a short-assured tenancy, and the respondents received the notice to quit and the s.33 notice timeously. The s.33 notice brought the tenancy to an end on 31/05/2024.

(v) The Respondent offers no resistance to this application. The applicant lives in the property with her partner and their two children. One child attends primary school, the other child is ten years older and has started a college course. The Respondent's partner is in paid employment. The Local Authority are willing to offer alternative accommodation.

(vi) The property is burdened with a mortgage. The Applicant's accountant has told the applicant that he is making a loss despite the rental income. The Applicant has tried to sell the house as an investment property, preserving the Respondent's tenancy, but has been unsuccessful. He now wants to withdraw from the Scottish housing market and sell the property.

(vii) The Respondent has no competent answer to the application for repossession, but a delay in execution of the repossession order will be helpful.

Reasons for the Decision

5. The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The tenancy was a short-assured tenancy. Correct notice was given which brought the short-assured tenancy to an end on 31/05/2024. The basis for possession set out in s.33 of the 1988 Act is established.

6. The respondents offer no defence to the application. The finite time for occupancy of the property as a short-assured tenancy has come to an end.

7. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

8. The days of appeal expire on 11 November 2024. The Respondent's family include two children in fulltime education. A delay in execution of an order for possession until 30 November 2024 is fair and reasonable.

9. For these reasons, the Tribunal determined to grant an Order for possession which cannot be executed before 12 Noon on 30 November 2024.

Decision

The Tribunal determined to make an Order for possession.

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.

P Doyle

Legal Member

Date: 11th October 2024