



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/24/3174

Re: Property at 87 Gartleahill, Airdrie, ML6 9JY (“the Property”)

Parties:

Mr Jamie McHutchieson, 115 Ballochmyle Wynd, Coatbridge, ML5 4QF (“the Applicant”)

Ms Bernadette Valente, 87 Gartleahill, Airdrie, ML6 9JY (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

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 10 July 2024;
2. AT5 and SAT commencing 12 June 2015;
3. Notice to Quit dated 27 February 2024;
4. Section 33 Notice dated 27 February 2024;
5. Sheriff Officer certificate of service of Notice to Quit and Section 33 Notice on 13 March 2024;
6. Section 11 Notice and email serving on local authority dated 10 July 2024;
7. Sheriff Officer certificate of service of CMD Notification on 30 August 2024.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 1 October 2024. The Applicant did not participate but was represented by his solicitor. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate but she did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that she should attend and the Tribunal could determine the matter in absence if she did not.

The Applicant's solicitor informed the Tribunal that he had 5 Properties including this Property which were rented out. He intended to sell the Properties as they were operating at a loss due to the rise in interest rates.

There were mortgage and other costs in respect of this Property and the others.

The Applicant's solicitor was unable to provide any details of the Respondent's circumstances and stated that there had been no engagement with the Respondent.

Decision and Reasons

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

1. The Parties let the subjects under a SAT commencing 12 June 2015;
2. An AT5 had been served prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served 13 March 2024;
4. Section 11 Notice had been served on the local authority on 10 July 2024;
5. The SAT had reached its end and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicant had given the Respondent notice that he required possession;
9. The Applicant required to recover possession of the Property to sell it and realise the capital as the Property was operating at a loss.

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 participate in the call and had not engaged with the Applicant so the Tribunal had no details regarding her personal circumstances.

The Applicant needed to sell the Property along with the rest in his portfolio as they were operating at a loss. The Tribunal were satisfied that it was reasonable in the circumstances to grant the order sought.

The Tribunal granted the application for eviction and recovery of 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.

Alan Strain

1 October 2024

Legal Member/Chair

Date