



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/24/1982

Re: Property at G-1 11 Jeanfield Road, Perth, PH1 1PG (“the Property”)

Parties:

Mr David Donaldson, Mrs Lillian Donaldson, 33 King Street, Perth, PH2 8JA (“the Applicants”)

Miss Hanna Grzella, G-1 11 Jeanfield Road, Perth, PH1 1PG (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 66 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 23 September 2024 informing both parties that a CMD had been assigned for 29 October 2024 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make

a decision on the application at the CMD if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 14 October 2024. No written representations were received by the Tribunal.

4. The Tribunal received further representations from the Applicant's representative on 28 October 2024.

The case management discussion – 29 October 2024

5. The CMD took place by conference call. The Applicants were represented by Ms Kayley Hallgarth-Myles. The Respondent joined the call, and was supported by Ms Kristyna Bilena, housing support officer. The Tribunal explained the purpose of the CMD. Ms Belina explained that the Respondent does not speak fluent English but understands the purpose of these proceedings and does not oppose the application for an eviction order. The Respondent lives alone in the Property and is in part time employment. She has been in touch with the local authority and has completed a housing application. Alternative accommodation has not yet been identified. The Applicants' representative explained that the First Applicant recently passed away. Prior to that, both Applicants had the intention to sell the Property and to cease activity as a landlord. The Second Applicant maintains that intention to sell the Property. The basis upon which recovery of possession was sought is that by operation of section 33, the tenancy has been brought to an end at the ish date.

Findings in Fact

6. The Applicants are the owners and landlords of the Property at G-1 11 Jeanfield Road, Perth, PH1 1PG
7. The Applicants are entitled to sell the Property.
8. The Respondent is the tenant of the Property.
9. The tenancy in question is a short assured tenancy which commenced on 5 May 2015. The tenancy has continued by tacit relocation.
10. The Applicants served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by recorded delivery post on 1 February 2024.
11. On 30 April 2024 the Applicants applied to the Tribunal for an order for possession based on the operation of section 33 of the Housing (Scotland) Act 1988.
12. The short assured tenancy had reached its ish.

13. Tacit relocation was not operating.
14. No further contractual tenancy was operating.
15. The Applicants intend to sell the Property.

Reason for Decision

16. The Tribunal proceeded on the basis of the documents lodged and the information provided at the CMD. The Applicant served a notice to quit and a notice in terms of section 33 of the Housing (Scotland) Act 1988. The conditions of section 33 had been satisfied in respect that the tenancy had reached its end, tacit relocation was not operating and no further contractual tenancy was in operation. No issue was taken with the validity of the notices. The Respondent did not oppose the application and has already made contact with the local authority in relation to alternative accommodation. In light of the information provided, the Tribunal was satisfied that it was reasonable to grant the 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.

Nicola Irvine

Legal Member/Chair

29 October 2024

Date