



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 (“the 1988 Act”) and Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/EV/24/1594

**Re: Property at 5 Tollbraes Road, Bathgate, EH48 2SH
 (“the Property”)**

Parties:

**Mr Robert Hunter, 32B Langriggs, East Lothian, EH41 4BY
 (“the Applicant”)**

**Rent Locally, Unit 1/109 Swanston Road, Edinburgh, EH10 7DS (“the Applicant’s
 Representative”)**

**Ms. Winifred Sourley Gordon, 5 Tollbraes Road, Bathgate, EH48 2SH
 (“the Respondent”)**

Tribunal Members:

**Ms Susanne L. M. Tanner K.C. (Legal Member)
 Mrs Mary Lyden (Ordinary Member)**

Decision (in absence of Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) (i) is satisfied in terms of Section 33 of the 1988 Act that the short assured tenancy for the Property has reached its end; tacit relocation is not operating; no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and the Applicant has given to the Respondent two months’ notice stating that they require possession of the Property; (ii) that it is reasonable to make an order for possession in the circumstances of the case; and (iii) made an order for possession in terms of Section 33 of the 1988 Act.

Statement of Reasons

1. The Applicant's Representative made an application to the tribunal on 9 April 2024, in terms of Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules").
2. The Applicant seeks the Respondent's eviction from the Property under Section 33 of the 1988 Act (possession on termination of a short assured tenancy).
3. The Applicant's Representative lodged supporting documents with the Application and in response to further information requests from the tribunal.
4. The tribunal's administration obtained the title sheet to the property which shows that the Applicant is the registered proprietor of the Property.
5. On 4 July 2024, the Application was accepted for determination and a Case Management Discussion ("CMD") was thereafter fixed for 22 October 2024 at 1400 by teleconference.
6. By letter of 18 September 2024, parties were notified by letter of the date, time and place of the CMD and told that they were required to attend. Parties were also advised in the same letter that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the Application, which may involve making or refusing an eviction order. If parties do not attend the CMD this will not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondent was asked to submit any written representations to the tribunal's offices by 9 October 2024.
7. The Application paperwork and notification of the date, time and place of the CMD was personally served on the Respondent by Sheriff Officers.
8. The Respondent did not submit any defence or written representations or make any contact with the tribunal's administration.

Case Management Discussion ("CMD"): 22 October 2024 at 1400 by teleconference

9. Mrs Todd, from the Applicant's Representative attended on behalf of the Applicant.
10. The Respondent did not attend the CMD or make any contact with the tribunal's administration. The tribunal was satisfied that the Respondent was personally

served by Sheriff Officers with the Application and notification of the CMD on 20 September 2024. The tribunal was satisfied that the requirements of Rule 24 of the 2017 Rules regarding the giving of notice of a hearing had been duly complied with and proceeded with the Application upon the representations of the party present and all the material before it.

11. Mrs Todd said that her former colleague had previously been dealing with the Application and had the tenancy. Mrs Todd said that the Respondent told her colleague that she wished to move into local authority housing and that the council are waiting for the outcome of the tribunal proceedings. The Respondent indicated to Mrs Todd's colleague that she does not want to go into a private let because of her age, as she is now 69.
12. Mrs Todd went through the supporting paperwork which her colleague had lodged with the Application.
13. The Applicant is the sole proprietor of the Property.
14. There is a short assured tenancy between the Applicant and the Respondent for the Property which began on 3 May 2013. and lasted until 3 November 2013 and then continued by tacit relocation on a monthly basis.
15. The short assured tenancy reached its end on 3 April 2024 by service on 1 February 2024 on behalf of the Applicant on the Respondent of a Notice to Quit, notifying the Respondent that the tenancy would reach its termination date as at 3 April 2024.
16. A Section 33 notice was served on behalf of the Applicant on the Respondent on 1 February 2022, notifying the Respondent that the Applicant required vacant possession as at 3 April 2023.
17. The Notice to Quit and Section 33 Notice were delivered by Royal Mail and by email to the Respondent on 2 February 2024 and the Respondent confirmed receipt on 2 February 2024 by email.
18. The Applicant wishes to sell the Property to use the proceeds to purchase a property in Canada where he resides. Mrs Todd does not have any further information about that.
19. The Property is a two bed roomed flat.
20. The Respondent is a single lady living alone. She is 69 years old. The Applicant's Representative made an offer to source another property for the Respondent on 7 February 2024 and the Respondent said that she wished to wait. The Respondent

said that she wishes to move out of the private rented sector into local authority accommodation. The Respondent requested a tenancy reference from the Applicant's Representative on 5 February 2024.

21. Mrs Todd has not had any contact with the Respondent in the period of one month since she began managing the Property and she cannot access her former colleague's emails for the period from April 2024 until the time that she left the firm. Mrs Todd was unable to provide any further update about the Respondent as she has not been in contact with her personally.
22. The Respondent's rent is up to date. Mrs Todd has no information to suggest that the Respondent's rent is paid via benefits. If she does receive benefits, they are not being paid directly to the agent.
23. The tribunal adjourned to discuss the case. The tribunal was satisfied that there was sufficient information to make a decision on the application.

24. The tribunal makes the following findings-in-fact:

- 24.1. The Applicant is the sole proprietor of the Property.
- 24.2. There is a short assured tenancy between the Applicant and the Respondent for the Property which began on 3 May 2013. and lasted until 3 November 2013 and then by tacit relocation on a monthly basis.
- 24.3. The short assured tenancy reached its end on 3 April 2024 by service on 1 February 2024 on behalf of the Applicant on the Respondent of a Notice to Quit, notifying the Respondent that the tenancy would reach its termination date as at 3 April 2024.
- 24.4. Tacit relocation is no longer operating.
- 24.5. No further contractual tenancy is for the time being in existence.
- 24.6. A Section 33 notice was served on behalf of the Applicant on the Respondent on 1 February 2022, notifying the Respondent that the Applicant required vacant possession as at 3 April 2023.
- 24.7. The Notice to Quit and Section 33 Notice were delivered by Royal Mail and by email to the Respondent on 2 February 2024 and the Respondent confirmed receipt on 2 February 2024.

- 24.8. The Applicant has given to the Respondent at least three months' notice stating that he requires possession of the Property.
- 24.9. The Application to the tribunal was made on 9 April 2024.
- 24.10. The Applicant wishes to sell the Property to use the proceeds to purchase a property in Canada where he resides.
- 24.11. The Property is a two bedroomed flat.
- 24.12. The Respondent is a single lady living alone. She is 69 years old.
- 24.13. The Applicant's Representative made an offer to source another property for the Respondent on 7 February 2024 and the Respondent said at that time that she wished to wait.
- 24.14. The Respondent has expressed an intention to move out of the private rented sector into local authority accommodation because of her age.
- 24.15. The Respondent requested a tenancy reference from the Applicant's Representative on 5 February 2024.
- 24.16. The Respondent's rent is up to date.

25. Findings in Fact and Law

- 25.1. The tribunal is satisfied that the requirements of Section 33 of the 1988 Act are met.
- 25.2. The tribunal is satisfied that in all the circumstances and on the basis of the findings of fact, it is reasonable and to make an order for possession of the Property.

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.

Susanne Tanner

22 October 2024