



**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/24/2298

Re: Property at 0/1 18 Clark Street, Renfrew, PA4 8QR (“the Property”)

Parties:

**Mr Craig Gray, 14 Woodleigh Lane, Prebbleton, Canterbury, 7604, New Zealand
 (“the Applicant”)**

**Mr Ronald Scott, Mrs Mary-Anne Banaag, 0/1 18 Clark Street, Renfrew, PA4
8QR; 0/1 18 Clark Street, Renfrew, PA4 8QR (“the Respondents”)**

Tribunal Members:

Graham Harding (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order for possession
of the property.**

Background

1. By application dated 20 May 2024 the Applicant’s representatives, Penny Lane Homes, Renfrew, applied to the Tribunal for an order for possession of the property in terms of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, Form AT5, Section 33 Notice and Notice to Quit with proof of Service, copy Section 11 Notice and email together with a letter of authority from the Applicant in support of the application.
2. By Notice of Acceptance dated 4 June 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 19 September 2024.

The Case Management Discussion

4. A CMD was held by teleconference on 23 October 2024. The Applicant did not attend but was represented by Mr Ian Troy from the Applicant's representatives. The Respondents did not attend nor were they represented. The Tribunal being satisfied that proper intimation of the date and time of the CMD had been given to them determined to proceed in their absence.
5. The Tribunal noted that although the Respondents had entered into a new Short Assured Tenancy Agreement when the Applicant's representatives assumed management of the property in 2017 they had lived at the property since 18 August 2015. Mr Troy confirmed that the Respondents current Short Assured tenancy had commenced on 18 February 2017 and endured until 18 August 2017 and continued from month to month thereafter. Mr Troy also confirmed that the Applicant had decided that due to increased costs in his mortgage over the property he wished to recover possession in order to sell the property. Mr Troy confirmed that a Section 33 Notice and Notice to Quit had been sent to the Respondents by recorded delivery post on 26 February 2024 and delivered on 27 February 2024 and that the Respondents had been given until 18 May 2024 to vacate the property. Mr Troy also confirmed that a Section 11 Notice had been sent by email to Renfrewshire Council on 20 May 2024.
6. Mr Troy went on to explain that the Applicant lived in New Zealand and only owned one property in Scotland. He said that the rent received for the property was £525.00 per month and that in addition to the mortgage of £540.00 per month the Applicant paid factoring fees of £100.00 per month, management fees of £63.00 per month and guaranteed rent insurance of £144.00 per year together with other costs for gas safety certificates and other incidental costs. Mr Troy said that as a result the Applicant was losing money from the property every month and had therefore decided to sell.
7. Mr Troy advised the Tribunal that the Respondents lived in the property with one child aged 12 and that the property had two bedrooms and two bathrooms. Mr Troy said that as far as he knew the Respondents had no health issues and both Respondents were working. Mr Troy explained that the rent for the property was low for a two-bedroom two-bathroom property in the area and that the current market rent was in the region of £800.00. In response to a query from the Tribunal as to why the Applicant had not increased the rent to the current market value, Mr Troy said that if the Tribunal refused to grant the order, then the Applicant would have to do that but that he would prefer to sell the property. Mr Troy said that he had recently spoken to the Respondents and he was aware that they had applied to the local authority for housing but had been told they would not be given any assistance until an order was granted by the Tribunal. Mr Troy said that the Respondents had also said they were looking for private rented properties. Mr Troy went on to say that another two-bedroom property in the same development had become available during the summer at

a rent of £800.00 per month and had been offered to the Respondents but they had refused it as the rent was too high. Mr Troy confirmed that the Respondents rent was paid up to date.

Findings in Fact

8. The Respondents have lived in the property since 18 August 2015.
9. The parties entered into a Short Assured Tenancy Agreement that commenced on 18 February 2017 and endured until 18 August 2017 and continued from month to month thereafter at a rent of £495.00 per calendar month.
10. The current rent is £525.00 per calendar month.
11. The Respondents were served with a Notice to Quit and Section 33 Notice by recorded delivery post on 27 February 2024.
12. Intimation of these proceedings was sent to Renfrewshire Council by way of a Section 11 Notice by email on 20 May 2024.
13. The Applicant granted a Standard Security over the property to Halifax PLC and the current monthly payment is £540.00. per month.
14. The Applicant pays factoring charges for the property of about £100.00 per month.
15. The Applicant pays the Applicant's representatives management charges of 63.00 per month.
16. The Applicant also pays other annual charges for a gas safety certificate and insurance and maintenance.
17. The Respondents live in the property with a 12-year-old child.
18. The Respondents are in employment.
19. The Respondents' rent is paid up to date.

Reasons for Decision

20. The Tribunal was satisfied from the documents submitted and the oral submissions that the parties entered into a Short Assured tenancy that commenced on 18 February 2017. The Tribunal was also satisfied that a valid Notice to Quit and Section 33 Notice had been served on the Respondents under the 1988 Act and that proper intimation of the proceedings had been given to Renfrewshire Council by way of a Section 11 Notice.

21. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for possession of the property and the removal of the Respondents from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that despite being given an opportunity to submit written representations to the Tribunal and to attend the CMD the Respondents had chosen to do neither. Nevertheless, the Tribunal still had to balance the rights of both parties in reaching a decision on reasonableness. In doing so the Tribunal took account of the fact that at the current rent the Applicant was losing a substantial sum in the region of £200.00 per month. This loss would more or less be alleviated if the Respondents' rent was increased to £800.00 per month which the Tribunal was told was the current market rent in the area. However, the Tribunal was also told that the Respondents had been offered a property in the same development at that rent and had refused it as being too high. Therefore, in the absence of any input from the Respondents indicating that they opposed the granting of the order sought and although the Tribunal accepts that the granting of the order will have an adverse effect on the Respondents and their child it is satisfied that the current losses being met by the Applicant are unsustainable and that it is therefore reasonable to grant the order sought.

Decision

22. The Tribunal being satisfied that it had sufficient information before it to make a decision without the need for a hearing determined that the Applicant was entitled to an order for possession of the property and the removal of the Respondents from 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.

**Graham Harding
Legal Member/Chair**

**23 October 2024
Date**

Graham Harding

