



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/24/4544

Re: Property at 9 Nicolton Court, Maddiston, Falkirk, FK2 0LB (“the Property”)

Parties:

Mrs Louise Malcolm, Mr Stuart Malcolm, 55 Kennedy Way, Airth, FK2 8GG; 27 Dundarroch Street, Larbert, Stirlingshire, FK5 3AA (“the Applicants”)

Ms Margaret Blythe, 9 Nicolton Court, Maddiston, Falkirk, FK2 0LB (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

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 Applicants 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 8 October 2024 informing both parties that a CMD had been assigned for 5 November 2024 at 10am, 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 29 October 2024. No written representations were received by the Tribunal.

4. The Tribunal received further representations from the Applicants' representative on 17 October 2024.

The case management discussion – 5 November 2024

5. This case called alongside a related case which proceeds under chamber reference FFTS/HPC/CV/2602. The CMD took place by conference call. The Applicants were represented by Miss Chloe Herd, solicitor. The Respondent did not join the call, and the discussion proceeded in her absence. The Tribunal explained the purpose of the CMD. The Applicants' representative explained that the Applicants have received one payment of rent directly from the Respondent's universal credit claim in the sum of £499.35. The effect of that payment has been to reduce the rent arrears to £6,951.68. The Respondent has been in direct contact with the Applicants and has acknowledged that there are two applications before the Tribunal for eviction and payment. However, the Respondent has not made any proposals for payment of rent or arrears. The Respondent is believed to have an adult daughter but it is unknown whether the Respondent lives alone in the Property. The Respondent's employment status is unknown to the Applicants. One of the Applicants now requires to live in 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 9 Nicolson Court, Maddiston, Falkirk, FK2 0LB.
7. The Respondent is the tenant of the Property.
8. The tenancy in question is a short assured tenancy which commenced on 12 October 2015. The tenancy has continued by tacit relocation.
9. The Applicants served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by sheriff officer on 9 February 2024.
10. On 7 June 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.

11. The short assured tenancy had reached its end.
12. Tacit relocation was not operating.
13. No further contractual tenancy was operating.

Reason for Decision

14. The Tribunal proceeded on the basis of the documents lodged and the information provided at the CMD. The Applicants 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. The Respondent did not participate in the CMD, nor did she lodge any written representations. 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.

N Irvine

Legal Member/Chair

5 November 2024

Date