



**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/24/2617

**Re: Property at 52 Melrose Road, Cumbernauld, Greenfaulds, G67 4BA (“the
Property”)**

Parties:

Mrs Diane Harding, Pharisee Green, Dunmow, CM61JN (“the Applicant”)

**Mr Ross McFarlane, 52 Melrose Road, Cumbernauld, Greenfaulds, G67 4BA
 (“the Respondent”)**

Tribunal Members:

Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant is 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 24 October 2024 informing both parties that a CMD had been assigned for 3 December 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 November 2024. No written representations were received by the Tribunal.

4. The Tribunal received further representations from the Applicant on 9 November 2024.

The case management discussion – 3 December 2024

5. This case called alongside a related case which proceeds under case reference FTS/HPC/CV/24/1418. The CMD took place by conference call. The Applicant joined the conference call and represented herself. The Respondent did not join the call, and the discussion proceeded in his absence. The Tribunal explained the purpose of the CMD.
6. The Applicant explained that the Respondent has been in arrears of rent for many years. He was making some additional payments towards the rent arrears until the notice to quit and section 33 notice were served. The last payment made by the Respondent was in February 2024. The rent arrears now amount to £7,300. The Respondent is believed to live alone in the Property and is understood to be in employment. The Applicant's letting agent has tried to make contact with the Respondent, without success. The Applicant wishes to recover possession of the Property so that she can sell it. 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

7. The Applicant is the owner and landlord of the Property at 52 Melrose Road, Cumbernauld, Greenfaulds, G67 4BA.
8. The Respondent is the tenant of the Property.
9. The tenancy in question is a short assured tenancy which commenced on 30 September 2015. The tenancy has continued by tacit relocation.
10. The Applicant 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 16 January 2024.
11. The short assured tenancy had reached its ish.
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 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. In considering the issue of reasonableness, the Tribunal took account of the long standing rent arrears. The Respondent has been consistently in arrears of rent since March 2020. The updated rent statement shows a significant level of rent arrears. The information before the Tribunal was that the Respondent has failed to engage with the Applicant's letting agent. The Respondent is failing to meet his primary obligation of paying rent. The tenancy appears to be unaffordable. 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.

Legal Member:

Date: 3rd December 2024