



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/24/2423

Re: Property at 70 Leeward Circle, East Kilbride, G75 8PD (“the Property”)

Parties:

Mr Alex Findlay, 26 Glenville Ave, Giffnock, G46 7AH (“the Applicant”)

Mrs Leanne Martin (Nee Mullen), Mr Robert Martin, 70 Leeward Circle, East Kilbride, G75 8PD; 70 Leeward Circle, East Kilbride, G75 8PD (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Helen Barclay (Ordinary Member)

Decision

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 Respondents 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 22 October 2024 informing both parties that a CMD had been assigned for 28 November 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 12 November 2024. No written representations were received by the Tribunal.

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

The case management discussion – 28 November 2024

5. The CMD took place by conference call. Both parties joined the call and represented themselves. The Tribunal explained the purpose of the CMD. The Respondents did not oppose the application for an eviction order. They explained that their 3 adult children have moved out of the Property and they live there now with their 4 year old son. They no longer require a property with 4 bedrooms and they are struggling to afford the rent. They have received discretionary payments for the last 18 months and that has assisted them to pay the rent. Without that assistance, they would be unable to do so. The Respondents have been in contact with the local authority and have been told that nothing can be done to re-house them unless and until an eviction order is granted. The Respondents have looked for other private lets but have been unable to secure alternative accommodation. The Applicant explained that the Respondents have been very good tenants. He has not increased the rent in 9 years because he knows the Respondents could not afford it. If the Applicant recovers possession, he intends to let the Property out to South Lanarkshire Council. 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 Applicant is the owner and landlord of the Property at 70 Leeward Circle, East Kilbride, G75 8PD.
7. The Respondents are the tenant of the Property.
8. The tenancy in question is a short assured tenancy which commenced on 22 February 2015. The tenancy has continued by tacit relocation.
9. The Applicant served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondents by recorded delivery post on 19 March 2024.
10. On 23 May 2024 the Applicant 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 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 ish, tacit relocation was not operating and no further contractual tenancy was in operation. The Respondents did not oppose the application and described the financial impact on them if they were to remain in the Property. 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

28 November 2024

Date