



**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/24/2805

Re: Property at Flat G 0/2, 26 Minerva Street, Glasgow, G3 8LD (“the Property”)

Parties:

Mr David Wray, 24/2 Howe Street, Edinburgh, EH3 8TG (“the Applicant”)

**Miss Kelly Morrison, Flat G 0/2, 26 Minerva Street, Glasgow, G3 8LQ (“the
Respondent”)**

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Eileen Shand (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to grant an order for eviction relying on section 33 of the
Housing (Scotland) Act 1988**

Background

1. By application dated 18 January 2024 the applicant seeks an order for eviction relying on section 33 of the Housing (Scotland) Act 1988.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Copy form AT5
 - Copy Notice to quit
 - Copy section 33 notice
 - Email from the respondent confirming receipt of notice to quit and section 33 notices

3. A case management discussion (“cmd”) was scheduled to take place by teleconference on 16 December 2024.

Case management discussion – teleconference- 16 December 2024

4. The applicant was represented by Karen Duncan, property asset manager from Robb Residential. The respondent attended on her own behalf.
5. Ms Duncan sought an order for eviction relying on section 33. The respondent stated that she did not seek to oppose the application.
6. In relation to service on the notice to quit and section 33 notice, Ms Duncan stated that it had not been possible to produce a copy of a recorded delivery slip as the documents had been sent by first class post. The documents that had been produced were dated 13 December 2023 and stated that the respondent required to leave the property by 15 February 2024. Ms Duncan referred to an email from the respondent which had been submitted to the Tribunal. The email was dated 14 December 2024. It was from the respondent and confirmed that she had received the notices. Ms Duncan sought to rely on this as evidence that the notices had been served. The respondent confirmed that she had received notices in or around December 2023 however she could not recall the precise date. She did not dispute that notices had been properly served.
7. The respondent stated that was looking for alternative accommodation. She stated that she had sought advice from the local authority in relation to securing alternative accommodation. The respondent stated that she had been in receipt of universal credit since December 2020. She stated that the housing costs element of universal credit did not cover the full cost of the rent and accordingly the property was no longer affordable. The respondent advised that she was in receipt of adult disability payment and sought a property that was more affordable and would provide some stability. The respondent advised that she resided with her 20 year old daughter who would continue to reside with her.
8. Ms Duncan stated that the applicant wished to update the property by carrying out various renovations. A list of proposed works had been submitted which included upgrading the heating system, a new kitchen and renovation of the bathroom. She stated that the works would require the respondent to remove

from the property. She stated that the applicant intended to relet the property after the works were completed.

Findings in fact and law

9. The parties entered into a short assured tenancy agreement with a commencement date of 15 February 2013.
10. Monthly rent in terms of the short assured tenancy agreement was initially £700.
11. Current monthly rent is £760.
12. A valid notice to quit and section 33 notice dated 13 December 2023 were served on the respondent.
13. It is reasonable to grant an order for eviction.

Reasons for the decision

14. Section 33 of the Housing (Scotland) Act 1988 states:

33 (1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal may make an order for possession of the house if the Tribunal is satisfied—

(a) that the short assured tenancy has reached its finish;

(b) that tacit relocation is not operating; ...

(c).

(d) that the landlord (or, where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house, and

(e) that it is reasonable to make an order for possession.

15. In the present application it is not disputed that the applicant has satisfied the requirements of section 33 (a), (b) and (d). The Tribunal is satisfied that a short assured tenancy was created when the respondent moved into the property. A notice to quit and notice in terms of section 33 were served on 13 December 2023. The notice to quit had the effect of preventing tacit relocation from operating. The section 33 notice provided the tenant with notice that the applicant required possession of the house.

16. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against.
17. The Tribunal took into account the oral and written submissions of the parties. The Tribunal accepted Ms Duncan's evidence that the applicant intended to carry out renovations to the property. In considering the reasonableness of granting an order the Tribunal were particularly concerned with the impact on the respondent. The Tribunal gave greatest weight to the fact that the respondent indicated that she had taken advice and did not seek to oppose the application. The respondent was very clear in her evidence on this point. The Tribunal accepted the respondent's evidence that the property was no longer affordable and due to her personal circumstances she was seeking assistance to find alternative accommodation.
18. Taking the foregoing factors into account the Tribunal found that on balance it was reasonable to grant an order for eviction.
19. Parties were agreed that enforcement of the eviction order should be suspended until 31 January 2025.

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.

Mary-Claire Kelly

Legal Member/Chair

16 December 2024

Date

