



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 and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/24/1727

Re: Property at 65 Elm Drive, Abronhill, Cumbernauld, G67 3LL (“the Property”)

Parties:

Mr Chris Addison, 130 Spruce Road, Abronhill, Cumbernauld (“the Applicant”)

Miss Jaclyn Mead, 65 Elm Drive, Abronhill, Cumbernauld, G67 3LL (“the Respondent”)

Tribunal Members:

Andrew Cowan (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 statutory requirements for eviction and recovery of possession have been established and that it is reasonable to grant the order sought.

Background

1. By application dated 16 April 2024, the Applicant sought an order under section 33 of the Housing (Scotland) Act 1988 (“the Act”) and in terms of rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 20 September 2024 the application was accepted by the tribunal and referred for determination by the tribunal.

3. A Case Management Discussion was arranged to take place on 7 February 2025 and appropriate intimation of that hearing was given to both parties.

The Case Management Discussion

4. The Case Management Discussion (CMD) took place on 7 February 2025 by telephone conference call. The Applicant was represented by Mrs Donna Cramb of K Property, the Landlord's letting agents. The Respondent also joined the conference call. The Respondent's father, Mr Anthony Mead, listened to the call as a support for the Respondent, although he did not otherwise take part in the proceedings.

Discussions at CMD

5. The Respondent explained to the Tribunal that she is a wheelchair user, and that the Property is a top floor flat which is no longer suitable for her personal needs. The Respondent has applied to the Local Authority for suitable alternative accommodation. She has been in active discussions with the Local Authority in relation to her application but has been informed that her application will not be given priority unless the tribunal have granted an order which terminates her current tenancy agreement with the Applicant. The Respondent accordingly confirmed to the Tribunal that she did not wish to object to the Application. She requested that the Tribunal consider suspending enforcement of any order for eviction for period of eight weeks to allow her to secure an offer of alternative accommodation from the local authority and to allow her time to arrange to move from the Property.
6. The Applicant's representative confirmed that the Applicant continues to seek an order for eviction. The application papers confirmed that the Applicant wished to sell the property. The Applicant's representative confirmed that the Applicant would not object to the Respondent's request to suspend enforcement of an order for eviction for a period of eight weeks.

Findings in Fact

7. The Applicant and the Respondent, as respectively the landlord and the tenant, entered into a tenancy of the property by an agreement dated 24 February 2014.
8. The tenancy was a short assured tenancy in terms of the Act
9. The tenancy agreement between the parties was emended in writing between the parties on 19 April 2017. In terms of that amendment the parties agreed to extend the lease “on a rolling month to month contract”. from 14 May 2017.
10. On 12 September 2023, the Applicant served upon the tenant a notice to quit and a notice in terms of section 33 (1) (d) of the Act. These notices were served on the respondent by email. By email dated 19 January 2023 the Respondent had intimated to the Applicant that she gave permission for her email address to be used by the Applicant, as her landlord, “with regards to any maintenance, inspections, or any other documentation” in relation to the tenancy between the parties. Said notices became effective on 14 November 2023.
11. The notices informed the tenant that the landlord wished to seek recovery of possession using the provisions of section 33 of the Act.
12. The notices were correctly drafted and gave appropriate periods of notice as required by law.
13. The basis for the order for possession was accordingly established.

Decision and reasons

14. An eviction order on this basis can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order
15. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties
16. In this case the tribunal finds that it is reasonable to grant the order.

17. The Respondent has confirmed her wish to move from the Property to an alternative property which is more suitable for her own personal needs.
18. The Tribunal have determined that, having considered all of the relevant circumstances, the balance of reasonableness in this case weighs towards the Applicant.
19. The Tribunal's order for eviction shall not be enforceable before 4 April 2025.
20. The Tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD

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.

Andrew Cowan

07 February 2025

Legal Member/Chair

Date