



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/24/2578

Re: Property at 198e High Street, Dalkeith, Midlothian, EH22 1AZ (“the Property”)

Parties:

Mrs Lisa Duncan, Jahili, Wellington, Hereford, HR4 8AT (“the Applicant”)

Mr Alexander Anderson, Mrs Kirsty Anderson nee Thomson, 198e High Street, Dalkeith, Midlothian, EH22 1AZ (“the Respondents”)

Tribunal Members:

Steven Quither (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) UNANIMOUSLY determined that the order for possession be GRANTED.

BACKGROUND

1. This is an application to bring to an end a Short Assured Tenancy between the parties, commencing 29 September 2017 for 12 months and continuing thereafter by tacit relocation on a monthly basis.
2. The application was based on Section 33 of the Act, providing a route to repossession so long as the Tribunal is satisfied not only that the formal requirements contained therein have been complied with but also that it is reasonable to make the order for repossession.
3. The supporting documentation for this application confirmed that appropriate notice periods had been given in respect of the s33 Notice and Notice to Quit and also that the appropriate local authority had been notified of the application in terms of s11 of the Homelessness etc. (Scotland) Act 2003.

4. In the application, the Applicant stated that she wished possession because the Property had been her principal home before the tenancy was granted and she now wished to sell it.
5. The Application was made on 4 June 2024 and, after a request for further clarification and information from the Tribunal dated 27 June 2024, responded to by the Applicant on 12 July 2024, was accepted by Notice of Acceptance of 12 August 2024, by virtue of which a Case Management Discussion (“CMD”) was duly fixed for 11 February 2025.
6. The Tribunal subsequently received sheriff officer confirmation of service of the application on the Respondents on 6 January 2025.
7. Prior to the CMD, the Tribunal received an email from the Applicant dated 10 February 2025 attaching a letter from the Respondents dated 16 January 2025 advising of their intention to leave the Property by 12 noon on 13 March 2025.

CASE MANAGEMENT DISCUSSION

8. Said CMD duly took place by teleconference on 11 February 2025 at 10am with all parties present.
9. The Applicant advised and confirmed:--
 - a) The Property was her main home;
 - b) Her son was autistic and needed more space than was presently available to him; and
 - c) She was seeking to sell the Property to raise funds to assist in looking after him.
10. The Respondents advised that they now had alternative accommodation they were anticipating moving into on or about 13 March, hence the terms of their letter of 16 January previously referred to.
11. In view of the reasonably short interval till said date, the Tribunal explored with the Parties whether a short continuation of this CMD might see that date reached and the Respondents move to their new accommodation, in which case the application might be withdrawn, as opposed to what might be viewed as an unnecessary order being granted.
12. A reasonably early date was identified for that purpose, but it could not be finalised procedurally and, upon canvassing matters further with the Parties, the Applicant advised that, for the sake of finality and certainty, she would like the order sought to be granted.

13. The Respondents confirmed they were not opposed to this, since they were confident they would have moved out of the Property before 13 March anyway.

14. In these circumstances, the Tribunal was content to comply with the Parties' wishes.

FINDINGS IN FACT

15. The parties entered into a Short Assured Tenancy on the terms stated in preceding Paragraph 1, which continued until these proceedings.

16. Appropriate procedural steps were taken to bring the tenancy to an end.

17. The Applicant now requires the Property to assist her in the long term care of her son, as referred to in preceding Paragraph 9.

REASONS FOR DECISION

18. Notwithstanding the Parties' agreement, as well as being satisfied as to the nature of the Tenancy and steps taken to bring same to an end, the Tribunal also considered if it was reasonable to make the order sought.

19. It was so satisfied, on the basis of the information provided about the Applicant's continuing care of her son and that the order would afford finality and certainty to the parties.

20. In any event, the order was not opposed by the Respondents.

21. Accordingly, the Tribunal considered it just and reasonable to grant the order for possession now sought.

DECISION

22. To grant the order for possession sought by the Applicant.

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.

SR QUITHER

11 FEBRUARY 2025

Legal Member/Chair

Date