

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/5107

Re: Property at 7 Glenshiel Avenue, Paisley, PA2 7PX (“the Property”)

Parties:

Mr Scott Robertson, Mrs Andrea Robertson, Flat 2-2, 1 Glencapp Road Paisley, PA2 7PS (“the Applicants”)

Mrs Elaine McLellan, 7 Glenshiel Avenue, Paisley, PA2 7PX (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the respondent

Introduction

1. This application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order.
2. Intimation of the application and of the Case Management Discussion (‘CMD’) was effected upon the respondent by Sheriff officers on 8 January 2025. Written submissions were received for the respondent in advance of the CMD.
3. The CMD took place on 17 February 2025 at 10.00 am. The applicants joined and were represented by Mrs Simone Callaghan of TC Young Solicitors. The respondent also joined the hearing and was represented by Ms Stella Cojocar of CAB.

Findings and Reasons

4. The property is 7 Glenshiel Avenue, Paisley PA2 7QT. The applicants are Mr Scott Robertson and Mrs Andrea Robertson. They are the heritable proprietors and registered landlords of the property. The respondent is Mrs Elaine McLellan who is the tenant.
5. The parties entered into a short assured tenancy which commenced on 6 April 2015 for an initial period of 12 months and which has continued on a month to month basis since. An AT5 Notice under section 32 of the 1988 Act was served on the respondent prior to the creation of the tenancy. Monthly rent was agreed at £750 per month.
6. On 12 July 2024 the applicant served upon the respondent a Notice to Quit. In the terms of the said Notice to Quit, the applicant gave notice to the respondent that she would require to remove from the property on or before 6 October 2024. Further, on 12 July 2024 the applicant served upon the respondent Notice under Section 33(1)(d) of the Housing (Scotland) Act 1988 stating that possession was required of the property as at 6 October 2024. A Sheriff officer's execution evidences the service of these documents upon the respondent on 12 July 2024.
7. The short assured tenancy between the parties has reached its end. Tacit relocation is not operating. No further contractual tenancy is in existence. The applicant has complied with the terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.
8. The tribunal also requires to consider the reasonableness of the eviction order being granted.
9. The applicants seek to evict the respondent on the grounds that they intend to return to live in the property with their family. They returned from living in New Zealand in October 2024 and are currently residing in temporary accommodation. They have two children, one of school age and another aged 18 who has additional support needs. The respondent is in substantial rent arrears which currently stand at £6,600. It is not reasonable to require the applicants to continue to make the property available to the respondent in these circumstances.
10. The respondent is not opposed to the eviction application. No opposition was offered.
11. A section 11 Notice under the Homelessness etc (Scotland) Act 2003 has been issued. In the event of an eviction order being made the local authority is under a statutory duty to make suitable alternative accommodation available.
12. The tribunal concluded that it was reasonable to grant the eviction 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.

R Mill

17 February 2025

Legal Member/Chair

Date