



**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/24/2507

Re: Property at 53 Whitehill Grove, Dalkeith, EH22 2LJ (“the Property”)

Parties:

Mr Gerald Maguire, 34 Laurel Bank, Dalkeith, EH22 2JH (“the Applicant”)

Ms Iona Birrell, 53 Whitehill Grove, Dalkeith, EH22 2LJ (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

At the Case Management Discussion (“CMD”) which took place by telephone conference on 25 February 2025 both the Applicant and the Respondent were present.

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:-

Background

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Short Assured Tenancy (“the SAT”) that commenced on 1 September 2016.
- ii. The initial term of the SAT was to 1 March 2017 and in terms thereof the SAT thereafter continued on a month to month basis.
- iii. On 28 March 2024, the Applicant personally served on the Respondent a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”) requiring the Respondent remove from the Property by 1 June 2024.
- iv. The application is dated 2 June 2024 and proceeds on the basis that the Applicant intends to sell the Property.

The CMD

At the Applicant made the following oral submissions:-

- i. He is still seeking an eviction order.
- ii. He bought the Property in 2002.
- iii. He subsequently lived in the Property for around 11 years.

- iv. He thereafter moved in with a third party and rented the Property for around a year. The tenant wrecked the Property and the Applicant required to renovate it. He intended to sell at that time.
- v. The Respondent and her husband approached the Applicant to rent the Property. The Applicant knew them socially.
- vi. The SAT has now been running for around 9 years.
- vii. The Applicant is in his 70s.
- viii. He is retired.
- ix. There is no mortgage over the Property.
- x. He has no Letting Agent and manages the Property himself. He no longer wishes to do that.
- xi. The Applicant owns no other properties which are rented out.

The Respondent made the following oral submissions:-

- i. She has no objection to an eviction order being granted.
- ii. She lives in the Property alone having previously separated from her husband.
- iii. She works part-time.
- iv. She has mental health and physical conditions.
- v. The Property is a first floor flat. She is now struggling with the stairs.
- vi. She has been on the local authority housing list for 15 years. She has now been allocated Grade A medical priority for a ground floor property with no more than 3 steps. The Respondent does not know when such a property might become available.
- vii. The Respondent has an appointment with her housing officer this week. She requires to take identification, a bank statement and a report of the outcome of the CMD.
- viii. She is in receipt of Universal Credit and the Adult Disability Payment.
- ix. The grant of an eviction order will help her move to and settle in more suitable accommodation. She is ready to move out of the Property.

Reasons for Decision

The Respondent confirmed she does not oppose the grant of an eviction order. She is struggling with the stairs up to the Property due to her health conditions and, having been on the Council housing list for 15 years, now has medical priority that will entitle her to ground floor accommodation as soon as such accommodation becomes available. She is ready to move and would like to settle into more suitable accommodation.

Decision

The Tribunal grants an eviction order against the Respondent in favour of 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.

Gillian Buchanan

Legal Member/Chair

25 February 2025
Date