

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/24/4074

Re: Property at 209 Holmlea Road (0/1), Cathcart, Glasgow, G44 4DS (“the Property”)

Parties:

Mr John Gray Hamilton, 39 Roddinghead Road, Giffnock, Glasgow, G46 6TN (“the Applicant”)

Ms Jeanette McGillivray, 209 Holmlea Road (0/1), Cathcart, Glasgow, G44 4DS (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order subject to the provision that it may not be enforced before 7 July 2025.

Background

[2] The Applicant seeks an Eviction Order under Section 33 of the Act. The relevant notice under Section 33 and a Notice to Quit have been served on the Respondent. The Application was accompanied by a copy of the relevant tenancy agreement; the relevant notice under Section 11 of the *Homelessness (etc) (Scotland) Act 2003*; the notice served under Section 33 of the Act; the relevant notice to quit and proof of service of both notices.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (“CMD”) by conference call at 2pm on 7 April 2025. The Applicant was represented by Ms Brechany, solicitor. The Respondent was personally present.

[4] The Respondent was not opposed to the eviction order being granted. She had already sought and obtained support from the local authority about alternate accommodation. The Tribunal discussed all aspects of the Application with both parties. The Applicant wished to sell the Property and retire from being a landlord. The Respondent described certain health difficulties and came across to the Tribunal as being somewhat vulnerable. The Tribunal noted that the Respondent had taken advice from the local authority about her options and had also discussed the situation with her family. The Tribunal was therefore confident that the Respondent was aware of her rights and that her consent to the Eviction Order was informed consent.

[5] Having heard from parties, the Tribunal made the following findings in fact:

Findings in Fact

1. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent on a Short-Assured Tenancy Agreement within the meaning of the Act;*
2. *The Applicant competently served a notice under Section 33 of the Act and a notice to quit which competently ended the contractual tenancy agreement between the parties;*
3. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003;*
4. *The Respondent is fully aware of her legal rights and is being supported to find alternate accommodation.*
5. *The Respondent suffers from poor health and is 74 years of age. She has mobility issues and requires ground floor accommodation.*

Reasons for Decision

[6] Having made the above findings in fact, the Tribunal considered that the tenancy had been ended under Section 33 of the Act. It was also reasonable to grant the Eviction Order.

The Tribunal therefore granted the Application but did so on the basis that it may not be enforced until 7 July 2025.

[7] The Tribunal felt it appropriate to make a final decision at today's CMD but also was respectful of the Respondent's health needs. The Respondent requires ground floor accommodation due to her age and infirmity. This may take some further time for the relevant local authority to source. Accordingly, the Tribunal considered that it was appropriate to provide for a period of three months before the order may be enforced.

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 McLaughlin

07 April 2025

Legal Member/Chair

Date