



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014.

Chamber Ref: FTS/HPC/EV/24/4853

Re: Property at 113 Craigbank Street, Larkhall, ML9 1JS (“the Property”)

Parties:

MR THOMAS ADAMS ROBERTSON, 17 DIXON STREET, HAMILTON, ML3 6PZ (“the Applicant”)

Ms Margaret Rush, 113 Craigbank Street, Larkhall, ML9 1JS (“the Respondent”)

Tribunal Members: Shirley Evans (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 113 Craigbank Street, Larkhall, ML9 1JS under Section 33 of the Housing (Scotland) Act 1988 be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicant or others in his name may enter thereon and peaceably possess and enjoy the same.

Background

- 1. This is an action for recovery of possession of the Property raised in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**
- 2. The application was accompanied by a copy of a tenancy agreement dated 18 March 2016 between the Applicant and the Respondent, an AT5 dated 18 March 2016, a Notice to Quit and Section 33 Notice dated 24**

July 2024, a Recorded Delivery receipt dated 24 July 2024, emails between the Applicant's letting agent and the Respondent dated 21 October 2024 and a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 with email dated 21 October 2024 to South Lanarkshire Council.

3. On 19 November 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 1 March 2025, the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 7 May 2025. The Respondent required to lodge written submissions by 22 April 2025. This paperwork was served on the Respondent by Christopher Andrew, Sheriff Officer, Glasgow on 4 March 2025 and the Execution of Service was received by the Tribunal administration.
5. The Respondent did not lodge any written representations by 22 April 2025.

Case Management Discussion

6. The Tribunal proceeded with the CMD on 7 May 2025 by way of teleconference. The Applicant was represented by Ms Duggan from Let Link Ltd. The Respondent, Ms Rush appeared on her own behalf.
7. The Tribunal had before it the tenancy agreement and AT5 dated 18 March 2016, the Notice to Quit and Section 33 Notice dated 24 July 2024, the Recorded Delivery receipt dated 24 July 2024, the emails between the Applicant's letting agent and the Respondent dated 21 October 2024 and the Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 with email dated 21 October 2024 to South Lanarkshire Council. The Tribunal considered the terms of these documents.
8. Ms Duggan confirmed the Applicant was seeking an order for eviction. The Applicant planned to sell the Property. She explained the mortgage over the Property was coming to an end and because of interest rates the Property was no longer profitable. The Applicant was looking at making changes to his business and had sold off other properties in his portfolio. This was the last property he needed to sell. She also explained that the Applicant was about 46 years old and had some health difficulties.
9. Ms Rush explained she had contacted the local council after receiving the notices and that despite her phoning them every day the Council have advised they do not have a property for her. She explained that her 24 year old niece had lived with her since she was a child. Her niece had learning difficulties which affected her global development. Neither she nor

her niece were in employment. She did not want to move but understood that the Applicant wanted to sell.

10. In answer to questioning from the Tribunal, Ms Rush confirmed she was her niece's carer and that she received carer's allowance. She had not tried to find alternative accommodation other than making an application with the Council. She explained that she hoped to get further points for her application and had recently submitted a statement from her niece's psychiatrist on the medical form. This is being checked by the Council's Occupational Therapist. She confirmed she did not need an adapted property.

Reasons for Decision

11. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the oral submissions made by the parties at the CMD. The Tribunal concluded that the Applicant was entitled to seek repossession of the Property under Section 33 of the Housing (Scotland) Act 1988. There was a properly constituted Short Assured Tenancy with the Respondent. The Tribunal was satisfied that the statutory provisions of Section 33 of the Housing (Scotland) Act 1988 had been met namely that the Short Assured Tenancy had reached its term (termination date); the Notice to Quit brought the contractual Short Assured Tenancy to an end, and that the Applicant had given the Respondent notice in terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.
12. The terms of Section 33 of the Housing (Scotland) Act 1988 would normally entitle the Applicant to a right of mandatory repossession of the Property. In terms of Schedule 1, paragraph 3 (4) of the Coronavirus (Scotland) Act 2020 the Applicant also has to satisfy the Tribunal that it is reasonable to evict. In determining whether it is reasonable to grant the order the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal gave weight to the Applicant's wish to sell the Property and that he had health difficulties. The Tribunal also considered the Respondent had a vulnerable adult living with her. However, it was clear that the Respondent was in regular contact with the local Council and had recently lodged further medical information in the hope she would obtain additional points towards her application. All things considered, the balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order.
13. In the circumstances the Tribunal considered that in terms of Section 33 of the Housing (Scotland) Act 1988 as amended it was reasonable to grant an eviction order. The order will be suspended to allow Ms Rush to secure suitable alternative accommodation.

Decision

14. The Tribunal granted an order for repossession. This will be suspended until 7 July 2025. The decision of the Tribunal was unanimous.

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.

Shirley Evans

19 May 2025

Legal Membe

Date