

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 16 of the Housing (Scotland) Act 2014.

Chamber Ref: FTS/HPC/EV/25/0166

Re: Property at Flat 6, 115 Glasgow Road, Clydebank, G81 1QH (“the Property”)

Parties:

Mrs Veronica Glen, 10 Chauvel Close, Catterick Garrison, North Yorkshire, DL9 3SN (“the Applicant”)

Mr Mark Campbell, Flat 6, 115 Glasgow Road, Clydebank, G81 1QH (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Elizabeth Williams (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 Flat 6, 115 Glasgow Road, Clydebank, G81 1QH under Section 33 of the Housing (Scotland) Act 1988 be granted. The order will be issued to the Applicants 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 her 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 Short Assured Tenancy Agreement and AT5 dated 10 June 2016, a Notice to Quit and Section 33 Notice dated 7 November 2024 with Recorded Delivery proof of posting, an email dated 6 January 2025 from Clyde Property to the Applicant and a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 to West Dunbartonshire Council dated 13 January 2025 with Recorded Delivery proof of posting.
3. On 18 February 2025, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 26 April 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 25 July 2025.

Case Management Discussion

5. The Tribunal proceeded with the CMD on 25 July 2025 by way of teleconference. The Applicant Mrs Glen appeared and represented herself. The Respondent Mr Campbell also appeared on his own behalf.
6. The Tribunal had before it the Short Assured Tenancy Agreement and AT5 dated 10 June 2016, the Notice to Quit and Section 33 Notice dated 7 November 2024 with Recorded Delivery proof of posting, the email dated 6 January 2025 from Clyde Property to the Applicant and the Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 to West Dunbartonshire Council dated 13 January 2025 with Recorded Delivery proof of posting. The Tribunal considered the terms of these documents.
7. Mrs Glen advised she was seeking an order for eviction. She wanted to sell the Property. She explained she was employed by the British Army in England. She had initially thought she would come out of the Army and had planned to move back to the Property. At that time she had given notice to the Respondent and had raised eviction proceedings in the Tribunal to evict him on the basis that she wanted to move into the Property. However, her contact with the Army was then extended. She withdrew her application. Her husband is also in the Army and they want to buy a house in England where they are based. She cannot afford to buy a home there unless she sells the Property. On being questioned by the Tribunal Mrs Glen advised she owned one other property which her mother lived in.
8. Mr Campbell accepted that he had been served Notice. He explained he had two children aged 12 and 17 who attend local schools. One of his children has mental health issues. He explained that he has taken advice from the homelessness team at the local Council. They have advised him to remain in the Property until an Order is granted. He is currently on benefits and is not working as he cares for his children full time. He was

apologetic to the Applicant as he understood she had the right to move on with her life. His children had recently found out about the current application to evict and it had unsettled them. The Tribunal queried as to whether, if they were minded to grant an eviction order, it would be helpful to him if that was suspended for a period of time. Mr Campbell explained he wished to move on too and get his children settled as soon as possible.

Reasons for Decision

9. 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 Applicants had given the Respondent notice in terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.
10. The terms of Section 33 of the Housing (Scotland) Act 1988 would normally entitle the Applicants 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 Respondent's desire to make sure his children were settled in a new home and not have the threat of eviction continuing to hang over their heads. The Respondent was sensibly taking advice from the local Council with regards to rehousing. Further, the Tribunal gave weight to the Applicants' wish to sell the Property to enable her and her husband to buy a home where they are based. The balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order.
11. 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.

Decision

12. The Tribunal granted an order for repossession. 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.

S Evans

Shirley Evans
Legal Member

— 25 July 2025
Date