

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/19/0278

Re: Property at 12 Blacksey Burn Drive, Crookston, Glasgow, G53 7SX (“the Property”)

Parties:

Mr Asan Ahmed, c/o The Property Store (GB) Ltd, 111 Albert Drive, Glasgow, G41 2SU (“the Applicant”)

Miss Noreen Asghar, 12 Blacksey Burn Drive, Crookston, Glasgow, G53 7SX (“the Respondent”)

Tribunal Members:

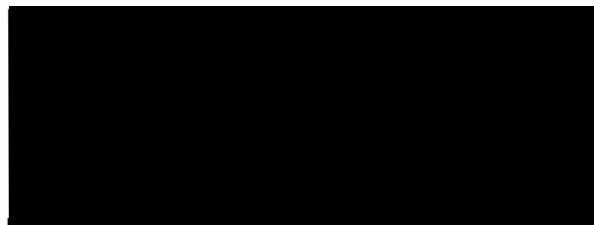
Lesley Ward (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property at 12 Blacksey Burn Drive Crookston Glasgow G53 7SX be made in terms of s33 of the Housing (Scotland) Act 1988.

This was a case management discussion ‘CMD’ in connection with an application in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules, ‘the rules’ and s33 of the Housing (Scotland) Act 1988, ‘the Act’. The tribunal had before it the following copy documents:

1. Application dated 25 January 2019 and received on the 29 January 2019.
2. Notice to quit dated 20 September 2018.
3. S33 notice dated 20 September 2018.
4. S11 notice to local authority.
5. Proof of service of items 2 and 3 by sheriff officer dated 26 September 2018.
6. AT5 signed by respondent on 14 June 2017.



7. Tenancy agreement for 14 June 2017 until 14 December 2018 and month to month thereafter.
8. Email from respondent dated 11 March 2019.
9. Sheriff Officer's execution of service on respondent dated 18 February 2019.

Mr Rana Asghar attended the CMD as the representative of the respondent. Mr Michael Ritchie solicitor attended as the applicant's legal representative. Mr Asghar stated that he has tried to obtain legal advice in connection with this application and the rent arrears application but a difficulty had arisen in obtaining advice because his wife is unable to get out of the house and go and seek legal advice because she is recovering from a difficult pregnancy. The solicitor was not prepared to speak to him as he was not on the current tenancy agreement.

Mr Ashgar's position was that he accepted that the proceedings have come about due to rent arrears. He is now taking steps to address the arrears and is hopeful that they can be cleared. He has benefit applications pending which, if granted, will be backdated several months. He also stated that he and his wife have lived in the property over three years and they have 4 young children who go to the local school. He has received information both from the letting agent and the landlord's family that the landlord may be prepared to allow their occupancy to continue.

Mr Ritchie was seeking the order sought and his view is that the 6 weeks or so which would elapse before it could be enforced would give the family time to make alternative arrangements. He was however prepared to agree to a short delay in enforcement until the end of April 2019.

Findings in fact

1. The applicant is the owner of the property.
2. The applicant entered into a short assured tenancy with the respondent for let of the property for the initial period of 14 June 2017 until 14 December 2018 and monthly thereafter.
3. The respondent was served with a valid notice to quit and s33 notice dated 20 September 2018 on 26 September 2018 with a valid ish date of 14 December 2018.
4. The short assured tenancy has reached its ish.
5. Tacit relocation is not operating.
6. No further contractual tenancy is in existence.

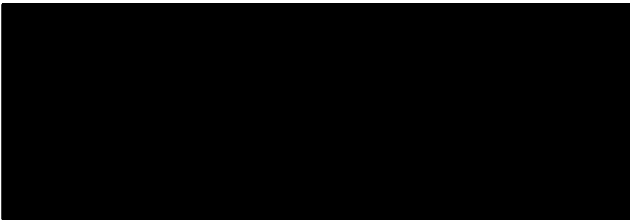
Reasons

The tribunal considered that it had enough information before it today to make a decision and the procedure has been fair. The tribunal took the respondent's

representative's position into account. It was agreed with the applicants' agent that the order granted would not be enforceable until 30 April 2019 to give the respondent and her family time to move out of the property. The tribunal accordingly granted the mandatory order sought.

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.



Lesley A Ward, Legal Member

12 March 2019

Date