

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/18/3407

Re: Property at 79 Camelon Crescent, Blantyre, G72 0BJ (“the Property”)

Parties:

Mr Alexander Fraser Nicol, c/o Jewel Homes Ltd, Atrium Business Centre, North Caldeen Road, Coatbridge, ML5 4EF (“the Applicant”)

Mr John Sutherland, 79 Camelon Crescent, Blantyre, G72 0BJ (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member)

Decision

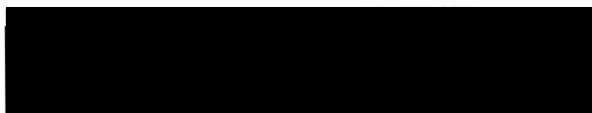
The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a hearing and made an Order for Possession of the Property.

Background

By application received by the Tribunal on 23rd January 2019, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by copies of a Short Assured Tenancy Agreement, commencing on 30th October 2015 and , if not ended by either Party on 1st May 2016 , continuing on a monthly basis until ended by either Party, a Form AT5 Notice dated 30th October 2015, a Notice to Quit and a Notice under Section 33 of the 1988 Act, both dated 11th September 2018 and both requiring the Respondent to vacate the property by 1st December 2018.

On 1st February 2019 the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was



invited to make written representations to the Tribunal by 20th February 2019. The Respondent made no written representations.

The Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on the morning of 25th February 2019. The Applicant was represented by Ms. Eilidh Crawford of Complete Clarity Solicitors. The Respondent was personally present.

The Applicant's representative asked the Tribunal to make the Order without a Hearing.

The Respondent indicated that there were rent arrears amounting to approximately four thousand pounds. He suggested that this action had only been raised due to the rent arrears position. He said that he was making immediate steps to repay the same with some pensions that he intended to cash in. The Tribunal enquired with the Applicant's representative whether this was going to have any bearing on her request to the Tribunal. It did not. Her position was to request the order for possession. There is no ongoing payment action currently before the Tribunal.

The Respondent fully accepted that there was a Short Assured Tenancy and that he had received all the requisite Notices.

Reasons for the Decision

Rule 17 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal may not do anything at a Case Management Discussion which it may do at a Hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would decide the application without a Hearing.

Section 33 of the 1988 Act provides that the Tribunal shall make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given to the tenant notice that he requires possession of the house.

The Tribunal was satisfied from its terms that the tenancy had reached its end, that, as a result of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy for the time being in existence and that the Notice required by Section 33 of the 1988 Act had been given. Accordingly, all the requirements of Section 33 of the 1988 Act had been met and the Tribunal was bound to make the Order for Possession.

Decision

The Tribunal determined that the application should be granted without a Hearing and made an Order for Possession of the Property.



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.



25/02/2019

Date