



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/21/0468

Re: Property at 55 Rockmount Avenue, Glasgow, G46 7DJ (“the Property”)

Parties:

Mr Mordecai Bamberger, 86 Hillside Road, London, N15 6NB (“the Applicant”)

Ms Tahira Kauser, 55 Rockmount Avenue, Glasgow, G46 7DJ (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the respondent’s eviction from the property be made on the basis that the short assured tenancy has reached its end and it is reasonable in all of the circumstances that the eviction order be made.**
2. This was a hearing in connection with an application in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Procedure Regulations 2017, ‘the rules’ and s33 of the Housing (Scotland) Act 1988, ‘the Act’. The applicant was represented by Ms Shona McLellan of Douglas Dickson Property Management. The respondent attended. A case management discussion ‘CMD’ on 8 April 2021 was adjourned today and the tribunal made the following directions:

The Applicant is required to provide:

- (1) Any correspondence he has received from his lender since around July 2020 in which the lender states that the property will be repossessed if the applicant

does not take steps to sell it.

- (2) Any other written documentation he has to substantiate his position.
- (3) A list of witnesses he intends to give evidence at the hearing on 4 June 2021.

The said documentation should be lodged with the Chamber no later than close of business on 29 April 2021.

The applicant's representative lodged the following on 5 May 2021 in response to the directions:

- Letter dated 28 April 2021 to applicant from Siberite Mortgages regarding repossession proceedings.
- Emails between applicant and Siberite Mortgages dated 12 February, 14 February, 5 March, 8 March 2021.

3. In addition, the tribunal had before it the following copy documents:

- (1) Application dated 1 March 2021.
- (2) Lease dated 28 October 2014.
- (3) AT5 dated 28 October 2014.
- (4) Notice to quit dated 25 August 2020.
- (5) S33 notice dated 24 August 2020.
- (6) S11 notice and proof of service.
- (7) Letter to respondent from applicant's agents Douglas Dickson dated 25 August 2020.
- (8) Sheriff officer's execution of service of items 5 and 6.
- (9) Land certificate.

4. Ms Kuaser has resided in the property with her 2 children since 2014. The children are now 10 and 13 years old. Ms Kuaser stated that she is not opposed to the eviction order. She has made both a housing application and a homeless application with East Renfrewshire Council and Glasgow City Council and the eviction order will enable her to progress her applications.

5. Ms McLellan was seeking an eviction order today. This was on the basis that the short assured tenancy has expired and it is reasonable in all of the circumstances to do so. She stated that the applicant intends to sell the property as soon as he has vacant possession. He has already had some valuations. Ms McLellan's company have also had contact with the housing department of the council who have reiterated that the eviction order will enable matters to be progressed.

Findings in fact

- **The applicant is the owner of the property.**

- The parties entered into a short assured tenancy for let of the property on 28 October 2014 for the initial period of 6 months until 27 April 2015 and month to month thereafter.
- The applicant was served with a valid notice to quit and s33 notice on 25 August 2020.
- The tenancy has reached its ish.
- Tacit relocation is not operating.
- The applicant has breached his mortgage conditions and his lender have issued a formal demand for repayment of the mortgage failing which they will repossess the property.
- The applicant intends to sell the property.
- It is reasonable in all of the circumstances that the eviction be granted.

Reasons

6. This was an unopposed eviction application. At the CMD the tribunal was advised that the applicant's lender was threatening him with repossession proceedings as his mortgage term had expired and refinancing was not available. The applicant's representatives lodged further information on 5 May 2021 confirming this. There was a second application before the tribunal at the CMD for rent arrears but that application was withdrawn as the respondent had cleared the arrears.
7. The tribunal was satisfied that the requirements of the Coronavirus (Scotland) Act 2020 had been complied with as the s33 notice was served on 25 August 2020 with a 6 month notice period.
8. As this application was made on 1 March 2021, the terms of s33 of the Act, as amended by the Coronavirus (Scotland) Act 2020 apply and the tribunal require to be satisfied that it is reasonable to grant the eviction order. The respondent was not opposed to the application. She was aware that the applicant was having difficulties with his mortgage lender, and she had been actively seeking either a private tenancy or a local authority tenancy without success. She would prefer permanent accommodation but was now also seeking temporary homeless accommodation. The tribunal was satisfied that it was reasonable in all of the circumstances to grant the eviction order. The tribunal accordingly granted the eviction order.

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.

4 June 2021

Lesley A Ward Legal Member

Date