



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/21/1047

Re: Property at 2/2, 24 John Street, Helensburgh, G84 8BA (“the Property”)

Parties:

Mr Albert Scott Bastable, 20 Stokes Road, Corsham, Wiltshire, SN13 9AA (“the Applicant”)

Ms Anne-Marie Shields, 2/2, 24 John Street, Helensburgh, G84 8BA (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

- Background
 1. An application dated 5 May 2021 was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondent upon termination of a short assured tenancy agreement.
- The Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 9 July 2021. The Applicant was represented by his letting agent, Renee Anderson of Lomond Letting Limited. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Sheriff Officer on 8 June 2021. The Tribunal was accordingly satisfied that the Respondent had

been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondent's absence.

3. The Applicant's representative moved for the order for repossession to be granted as sought. The parties had entered into a Short Assured Tenancy Agreement which commenced 25 June 2013. The Applicant had served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") on the Respondent by Recorded delivery post on 17 October 2020 and which required the Respondent to remove from the Property by 25 April 2021. The Respondent had failed to remove from the Property. The Applicant required repossession of the Property.
4. The Applicant's representative submitted that the Applicant wished to repossess the property in order to sell it. He has moved to England for work and now wishes to sell the Property as he would not be returning. The Respondent has been told that the landlord intended to sell, and had been offered alternative properties but she had failed to respond to the agent's attempts to contact her. The Applicant's representative believed that the Respondent was still living in the property but could not be sure as she failed to communicate. She had originally lived in the property with one of her daughters (believed to be of primary school age at the start of the tenancy) but it was not known whether she continued to reside therein. The Respondent had an older daughter (age unknown) who is believed to reside in Glasgow. It was believed that the Respondent spent time between the Property and in Glasgow and did not reside in the Property on a full-time basis.
5. The Applicant's representative submitted that there had also been complaints from others in the stair regarding antisocial behaviour by the Respondent and her daughters and visitors, namely noise, smoking in the stair and fights. An elderly lady in the stair reported feeling scared. The Police had been called on a number of occasions. The Respondent has refused to provide access to a gas engineer to replace the boiler and has caused damage to the windows in the Property. The Respondent is also now in arrears of rent amounting to £737.19. She is in receipt of partial Housing Benefit but fails to top-up her rent. Due to the issues the Applicant has had to deal with, and the fact that he is now living in England, he wishes to sell up and no longer rent out Property.

- Findings in Fact

The Tribunal made the following findings in fact:

1. The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 25 June 2013. The Agreement stated that the start date was 25 June 2013 and the end date was 25 December 2013. Thereafter, if the Agreement is not brought to an end by either party it will run on a monthly basis until ended by either party;
2. A Notice to Quit and notice under section 33 of the 1988 Act were served on the Respondent on 17 October 2020 by recorded delivery post;

3. The Notice to Quit and notice under section 33 of the 1988 Act required the Respondent to remove from the Property by 25 April 2021;
4. The Respondent had failed to remove from the Property and continued to reside therein.

- Reasons for Decision

The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met: namely that the tenancy had reached its end; tacit relocation was not operating; a notice had been served in terms of that section giving at least 6 months' notice; and no further contractual tenancy was in existence.

The Tribunal also required to consider the question of the reasonableness of granting the Order, in terms of Section 3(4) of Schedule 1 to the Coronavirus (Scotland) Act 2020. The Tribunal was satisfied that it was reasonable to evict in the circumstances. The Tribunal accepted the statements made by the Applicant's representative in relation to the Applicant wishing to sell the Property, and that there had been persistent issues of antisocial behaviour by the Respondent, her family and visitors to the Property. The Tribunal accepted the statements made by the Applicant's representative that they had attempted to engage with the Respondent to offer alternative accommodation and that she had failed to communicate with them. In the absence of any written representations being made by the Respondent, and her failure to appear at the CMD, the Tribunal was satisfied that it was reasonable to grant the Order.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

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.

Fiona Watson

Legal Member/Chair

Date: 9 July 2021