



**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 (Act)**

**Chamber Ref: FTS/HPC/EV/21/1504**

**Re: Property at Flat 3/2, 81 Somerville Drive, Glasgow, G42 9BJ (“the Property”)**

**Parties:**

**Mr Ameen Sharif, c/o 1st Lets Glasgow Ltd, 2 Calder Street, Glasgow, G42 7RT (“the Applicant”)**

**Mrs Lesley Pryce, Flat 3/2, 81 Somerville Drive, Glasgow, G42 9BJ (“the Respondent”)**

**Tribunal Member:**

**Alan Strain (Legal Member) and Tony Cain (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.**

**Background**

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents:

1. Application received 22 June 2021;
2. SAT dated 5 November 2014 and AT5;
3. Notice to Quit dated 2 November 2020;
4. Section 33 Notice dated 2 November 2020;
5. Royal Mail Recorded Delivery Receipts;
6. Section 11 Notice with proof of service;
7. CMD Note and Direction dated 3 March 2022;

8. Direction Response from Applicant received 17 March 2022;
9. Written Representations from the Respondent dated 8 March 2022 with productions;
10. Written Representations from the Respondent dated 6 June 2022;
11. Written Submissions from Applicant received 8 June 2022 enclosing documents.

## **Hearing**

The Applicant represented himself. The Respondent was represented by Mr MacIntosh of Castlemilk Law Centre.

The Applicant wished to recover possession and sell the Property due to financial difficulties he was experiencing. He had not worked for 2 years and needed to sell the Property to clear his debts. He could not sell the Property with a sitting tenant as that would not realise sufficient funds to clear his debts. His health was suffering and he could not afford to keep the Property.

The Respondent had initially opposed this on the basis that she required to live in the Property to provide accommodation for herself, her son and daughter. Her daughter had mental health issues and was being cared for by her mother and also under a local GP. Her son was in Primary 7 and due to start at Kings Park Secondary this year. She needed to continue to live in the Property for her son to attend the secondary and for the continuing care of her daughter.

The Respondent also submitted that there were issues relating to her rent payments, the Property did not comply with the repairing standard and she had raised civil proceedings in respect of that.

The Respondent now agreed that it was reasonable to grant the eviction order but sought to postpone execution of the order 6 months under Rule 16A of the Tribunal Procedure Rules. This would allow the Respondent further time to source alternate accommodation. The Respondent needed somewhere in the local area. She had been searching for alternate accommodation but had been unsuccessful so far due to the lack of affordable/suitable rental properties available and increase in demand for rental properties which meant there were not a lot of properties available. She needed a place in the locality for her family and their health, education and wellbeing.

The Respondent confirmed that she had been in touch with the local authority and local housing associations as well as monitoring the private rented sector

The Applicant disputed the Respondent's position in any event and stated he had documentary evidence from his Letting Agents to confirm that she had never made any complaints about the condition of the Property. He also stated that the Respondent was in rental arrears. Both these assertions were disputed by the Respondent. No documentary evidence was produced regarding complaints about the Property or a rent statement.

The termination of the SAT and the service of the appropriate documentation was not in dispute. The only issue the tribunal had to determine was the issue of reasonableness.

## **Decision and Reasons**

The Tribunal then considered the eviction application before it.

The Tribunal considered the oral and documentary evidence from the Parties and in so far as material made the following findings in fact:

1. The Parties let the subjects under an SAT dated 5 November 2014;
2. An AT5 had been served on the Respondent prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served on 2 November 2020;
4. Section 11 Notice had been served on the local authority;
5. The SAT had reached its term and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicant had given the Respondent notice that he required possession;
9. The Respondent is experiencing difficulties in sourcing alternate accommodation for herself and her family despite making all reasonable attempts to do so;
10. The eviction would occasion stress and anxiety to the Respondent and have a detrimental impact on her children's health, education and welfare;
11. The Applicant is experiencing financial and health difficulties. He needs to sell the Property to clear his debts.

The Tribunal considered all of the evidence and submissions. The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal were satisfied that the Applicant clearly needed to sell the Property as he was experiencing financial hardship and this ongoing situation was having a detrimental impact on his health. The Tribunal were also satisfied that the Respondent was trying but having difficulties in sourcing alternate accommodation. Granting the order would occasion further stress, anxiety and disruption to the Respondent and her family. The Tribunal sought to balance the competing interests of the Parties and determined that it would be reasonable to grant the order but to postpone execution of the order to 8 October 2022 under Rule 16A of the Tribunal Procedure Rules. This would allow the Respondent further time to source alternate accommodation.

The Tribunal granted the application for eviction and recovery of possession.

## **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.

# A Strain

8 June 2022

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Legal Member/Chair

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Date