



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/21/2706

Re: Property at 5 Robson Grove, Glasgow, G42 7PN (“the Property”)

Parties:

Ranjit Kaur Singh, Mandeep Seran, 4 Wallace Gate, Bishopbriggs, G64 1GB (“the Applicants”)

Natasha Paterson, 5 Robson Grove, Glasgow, G42 7PN (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. This is an application by the Applicants for an order for possession on termination of a short assured tenancy in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”). The tenancy in question was a Short Assured Tenancy of the Property by the Applicants to the Respondent commencing on 16 October 2017.
2. The application was dated 2 November 2021 and lodged with the Tribunal around that date.
3. The application relied upon a single document containing both the Notice to Quit and notice in terms of section 33 of the Housing (Scotland) Act 1988, dated 2 February 2021, providing the Respondent with notice (respectively) that the Applicants sought to terminate the Short Assured Tenancy and have the Respondent vacate, each by 14 August 2021. Evidence of postage of the said

notice by Recorded Delivery on 3 February 2021, and that it was signed for on 4 February 2021, was included with the application.

4. Evidence of a section 11 notice dated 4 November 2021 in terms of the Homelessness Etc. (Scotland) Act 2003 served upon Glasgow City Council was provided with the application.

Consideration in lieu of a Hearing

5. A case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting remotely by telephone conference call, was assigned for 14:00 on 14 January 2022. On 11 January 2022, the Tribunal was sent an email exchange where solicitors for the parties confirmed that parties were content for an order for eviction to be issued but suspended for 12 weeks. The Applicants were represented by a solicitor from Blackadders and the Respondent by a solicitor from Govan and Govanhill Law Centre. The parties sought the CMD discharged and the order issued administratively.
6. On the morning of 14 January 2022, we had an opportunity to discuss the exchange of emails, the application papers, and the terms of Procedure Rule 18 which permits us to “make a decision without a hearing if the First-tier Tribunal considers that ... having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and ... to do so will not be contrary to the interests of the parties” provided we “consider any written representations submitted by the parties”.
7. We duly considered it appropriate to consider the matter without a hearing and moved on to consider the application around 09:30 that morning by telephone conference call without attendance from the parties. We instructed the Tribunal clerk to inform the parties of our decision to discharge the CMD (as well as our below decision on the merits of the application).
8. We noted that no order for expenses was sought in terms of the joint motion.

Findings in Fact

9. On 16 October 2017, the Applicants let the Property to the Respondent by lease with a start date of 16 October 2017 until 15 October 2018 to “continue from month to month thereafter until terminated” (“the Tenancy”).
10. The Tenancy was a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988 further to the Applicants issuing the Respondent with a notice under section 32 of the 1988 Act (an “AT5”) on 16 October 2017, prior to commencement of the Tenancy.
11. On 2 February 2021, the Applicants’ solicitor drafted a Notice to Quit in correct form addressed to the Respondent, giving the Respondent notice that the Applicants wished him to quit the Property by 15 August 2021.

12. On 2 February 2021, as part of the same said document, the Applicants' solicitor drafted a Section 33 Notice under the 1988 Act addressed to the Respondent, giving the Respondent notice that the Applicants required possession of the Property by 15 August 2021.
13. 15 August 2021 is an ish date of the Tenancy.
14. On 3 February 2021, the Applicants' letting agent competently served the document containing both notices upon the Respondent by sending them by recorded delivery post. The Respondent was thus provided with sufficient notice of the Applicants' intention that the Tenancy was to terminate on 15 August 2021.
15. On 2 November 2021, the notice period under the notices having expired, the Applicants raised proceedings for an order for possession with the Tribunal, under Rule 66, the grounds of which being that the Tenancy had reached its ish; that tacit relocation was not operating; that no further contractual tenancy was in existence; that notice had been provided that the Applicants required possession of the Property all in terms of section 33 of the 1988 Act; and that it was reasonable to make the order.
16. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Glasgow City Council on or around 4 November 2021 on the Applicants' behalf.
17. On 3 December 2021, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 14 January 2022.
18. The Respondent has consented to an order for eviction provided it is suspended twelve weeks, so she may have an opportunity to seek alternative accommodation.

Reasons for Decision

19. The application was in terms of rule 66, being an order for possession upon termination of a short assured tenancy. We were satisfied on the basis of the application and supporting papers that the necessary notices had been served with sufficient notice (in terms of the temporary amendment of the 1988 Act), the Respondent was extending no defence or dispute to the notices, and thus the requirements of the 1988 Act had been complied with.
20. We require, in terms of the 1988 Act as temporarily amended, to consider "that it is reasonable to make an order for possession". On this, given that parties were in agreement that the order be suspended for twelve weeks to allow an opportunity for the Respondent to seek alternative accommodation, we were satisfied that it was clearly reasonable to grant the order in those terms.

21. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. We were thus satisfied to grant an order for possession with the said suspension.

Decision

22. In all the circumstances, we make the decision to grant an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988 but suspended for twelve weeks, so no eviction may be scheduled prior to 12:00 on 9 April 2022.

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.

J Conn

14 January 2022

Legal Member/Chair

Date