



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. (“The Act”)

Chamber Ref: FTS/HPC/EV/23/0704

Re: Property at 3 Burnside Gardens, Mainstreet, Newburgh, Aberdeenshire, AB41 6BS (“the Property”)

Parties:

Mrs Elaine Tait (Nee Duncan), 37 Balmoral Avenue, Ellon, AB41 9EW (“the Applicant”)

Ms Lynn Duncan, 3 Burnside Gardens, Mainstreet, Newburgh, Aberdeenshire, AB41 6BS (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application.

Background

The Applicant seeks an Eviction Order under s33 of the Act. The Application is accompanied by a copy of the tenancy agreement, the relevant s33 notice with notice to quit and proof of service together with the notice to the local authority under s11 of the Homelessness (etc) (Scotland) Act 2003.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 29 June 2023. The Applicant was represented by Mr Dorran, solicitor. The Respondent was personally present. Neither party had any preliminary matters to raise and were content to proceed. The Respondent confirmed that she understood the purpose of the CMD and had fully considered the papers.

Having heard from parties, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent on a short-assured tenancy under the Act;*
- II. *The Applicant competently served a notice under s 33 of the Act together with a notice to quit bringing the tenancy to an end on its ish date;*
- III. *The Respondent has failed to remove from the Property;*
- IV. *The Applicant has complied with s11 of the Homelessness (etc) (Scotland) Act 2003;*
- V. *The Respondent resides in the Property with her partner and two children aged 17 and 12;*
- VI. *The Respondent has been offered alternate accommodation a short distance from the Property;*
- VII. *The Respondent's younger son's schooling will not be affected by such a move;*
- VIII. *The parties are related and have become estranged. The Respondent has never paid any rent for the Property despite the clear terms of the tenancy agreement. This is financially unstainable for the Applicant.*

Reasons for Decision

Having made the above findings in fact, the Tribunal found that the Applicant had competently complied with the terms of s 33 of the Act and that it was reasonable to grant an 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.

Andrew McLaughlin

Legal Member/Chair

29 June 2023

Date