

Housing and Property Chamber
First-tier Tribunal for Scotland



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 and Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/23/1334

Re: Property at Flat 1/2, 29 Barmill Road,, Mansewood, Glasgow, G43 1EJ (“the Property”)

Parties:

Christopher Garman, 6A Roddinghead Road, Glasgow, G46 6TW (“the Applicant”) per his agents, Clarity Simplicity Legal, 34, Woodlands Road, Glasgow, G3 6UR (“the Applicant’s Agents”)

Ms Lisa Mann and Mr Dylan Mann, Flat 1/2, 29 Barmill Road, Mansewood, Glasgow, G43 1EJ (“the Respondents”)

Tribunal Members:

Karen Moore (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory process for eviction and recovery of possession having been established, it is reasonable to grant the Order sought.

1. By application received between 25 April 2023 and 13 June 2023 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for possession of the Property based on the service of statutory notices to bring the tenancy to an end. The Application comprised copy Notice to Quit and copy Section 33 Notice with proof of service, copy short assured tenancy agreement with relevant AT5 between the Parties and copy notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Glasgow City Council, being the relevant local authority. The Application explained that the Applicant required to terminate the tenancy in order to sell the Property. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 11 September 2023 at 14.00 by telephone conference. The CMD

was intimidated to the Parties and to the Respondents, in particular, by Sheriff Officer on 10 August 2023.

CMD

2. The CMD took place on 11 September 2023 at 14.00 by telephone. The Applicant did not take part and was represented by Miss Anderson of the Applicant's Agents. Neither Respondent took part and were not represented. They did not submit written representations.
3. The Tribunal advised Miss Anderson that it was satisfied that the Respondents were aware of the proceedings by virtue of personal Sheriff Officer service and would proceed in their absence. The Tribunal asked Miss Anderson to provide information on the circumstances of the Parties for the purpose of determining if it is reasonable for the Tribunal to grant the Order
4. Miss Anderson explained that, as set out in the Application, the Applicant required to terminate the tenancy in order to sell the Property in order to fund the purchase of a property to reside in as his home. She explained that he currently resides with his parents. With regard to the Respondents, Miss Anderson advised that it was her understanding that the Respondents are mother and son, both being adults. She stated that there had been little contact between the Parties but understood that the Respondents had indicated that they were seeking local authority assistance to secure alternative accommodation. With regard to payment of rent, Miss Anderson advised that the monthly rent of £525.00 had always been underpaid at the rate of £450.00 per month, but the Applicant did not intend to pursue the arrears. She understood that the Respondents continue to reside in the Property and understood that they have been in employment from time to time throughout the tenancy which began in 2012.

Issue for the Tribunal

5. The issue for the Tribunal is to determine if the statutory ground is established and if it is reasonable to grant the Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*". The Tribunal adjourned to consider if it had sufficient information to make a decision and took the view that it had. Therefore, the Tribunal proceeded to determine the Application.

Findings in Fact

6. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a short assured tenancy of the Property between the Parties with a monthly rent of £525.00;
 - ii) A valid Section 33 Notice and a valid Notice to Quit were served;
 - iii) The Respondents have not vacated the Property;
 - iv) The Respondents have underpaid the rent by £75.00 throughout the tenancy;
 - v) The Applicant requires to sell the Property to fund another property purchase and requires vacant possession to do so.

Decision and Reasons for Decision

7. The Tribunal had regard to all the information before it and to its Findings in Fact.

8. The Tribunal took the view that the statutory procedure to end the tenancy had been followed.

9. The Tribunal then considered if it could be satisfied that it is reasonable to issue an eviction order. The Tribunal had regard to the fact that the Applicant requires to sell the Property to fund another property purchase and requires vacant possession to do so. The Tribunal had regard to the fact that when the tenancy commenced, the Applicant had had an absolute right to terminate it on the proper statutory notice. The Tribunal noted that the Respondents have underpaid rent throughout the tenancy, and although the underpayment is not being pursued, considered that this places an adverse financial impact on the Applicant. The Tribunal took the view that continuing the tenancy places an additional and continuing financial burden on both the Applicant and the Respondents. Accordingly, the Tribunal was satisfied that it is reasonable to issue 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.



11th September 2023

Legal Member/Chair

Date