



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/23/1649

Re: Property at 99 Queens Street, Alva, FK12 5AX (“the Property”)

Parties:

Mrs Margaret-Ann Drummond, 17 Beveridge Place, Kinross, KY13 8QY (“the Applicant”) per her agents JLC Property Lettings Suite 2 24, Innovation Centre, 1 Ainslie Road, Glasgow, G52 4RU (The Applicant’s Agents”)

Mr Christopher Mathers, 99 Queens Street, Alva, Clackmannanshire, FK12 5AX (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Frances Wood (Ordinary Member)

Decision

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 22 May 2023 and 28 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 Clackmannanshire 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 13 October 2023 at 10.00 by telephone conference. The CMD was intimated to the Parties and to the Respondent, in particular, by Sheriff Officer on 6 September 2023.

CMD

2. The CMD took place on 13 October 2023 at 10.00 by telephone. The Applicant did not take part and was represented by Mr. J. Carswell of the Applicant's Agents. The Respondent, Mr Mathers, took part and was not represented.
3. The Tribunal advised Mr. Carswell that it was satisfied that the statutory procedure for the Application had been carried out correctly. The Tribunal asked the Mr. Mathers if he opposed the Application and he advised that he did not.
4. Mr. Mathers advised the Tribunal that he understood that the tenancy had been brought to an end and that he would have to vacate the Property and explained that the advice he had been given by Clackmannanshire Council was that they could not assist until an eviction Order had been granted. He explained that the advice was that he would be intentionally homeless and not eligible for assistance if he vacated the Property voluntarily and ahead of the Order being granted.
5. Mr. Carswell explained that the Applicant, Mrs. Drummond, required to terminate the tenancy in order to sell the Property and explained that she was selling this and her other property as she was no longer able to continue as a landlord. Mr. Carswell stated that Mrs. Drummond had asked Clackmannanshire Council if they would purchase the Property so that Mr. Mathers could remain in his home but the Council had declined to do so.

Issue for the Tribunal

6. 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 took the view that it had sufficient information to make a decision. Therefore, the Tribunal proceeded to determine the Application.

Findings in Fact

7. 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;
 - ii) A valid Section 33 Notice and a valid Notice to Quit were served;
 - iii) The Respondent has not vacated the Property but is prepared to do so;

- iv) The Respondent does not oppose the Application;
- v) The Applicant intends to sell the Property and requires vacant possession to do so and
- vi) The Applicant intends to cease acting as a landlord;

Decision and Reasons for Decision

8. The Tribunal had regard to all the information before it and to its Findings in Fact.
9. The Tribunal took the view that the statutory procedure to end the tenancy had been followed.
10. 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 intends to sell the Property and requires vacant possession to do so. The Tribunal also had regard to the fact that the Applicant intends to stop acting as a landlord. The Tribunal noted 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 Respondent is prepared to vacate the Property and does not oppose the Application. The Tribunal took the view that continuing the tenancy is not in the interests of either the Applicant or the Respondent. 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.

Karen Moore

13th October 2023

Legal Member/Chair

Date