



**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/23/1752**

**Re: Property at 28 Netherplace Crescent, Newton Mearns, Glasgow, G77 6BT (“the  
Property”)**

**Parties:**

**Mrs Ann McLachlan and Mr Douglas McLachlan, Barco Jouet, Deportivo Marina  
Salinas, Paseo Vista Alegres S/N, Torrevieja, Alicante, 03181, Spain (“the  
Applicant”)**

**Mrs Nicola Holloway, 28 Netherplace Crescent, Newton Mearns, Glasgow, G77  
6BT (“the Respondent”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

At the Case Management Discussion (“CMD”) that took place by telephone conference on 27 September 2023 the Applicants were represented by Ms Allison Turner of MAC Flats Limited, 1 Carment Drive, Glasgow, G41 3PP. The Respondent was present.

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

**Background**

A CMD had previously taken place on 26 August 2023. That CMD was adjourned to await a determination by the Scottish Government as to whether to extend the temporary pause of up to six months on the enforcement of eviction orders under the Cost of Living (Tenant Protection)(Scotland) Act 2022 to 31 March 2024.

The Tribunal noted that on 20 September 2023 the Scottish Government passed the Regulations previously drafted to extend the effect of the Cost of Living (Tenant Protection)(Scotland) Act 2022 to 31 March 2024.

## **The CMD**

At the CMD Ms Turner for the Applicants made the following submissions:-

- i. Nothing has changed relative to the Applicants' position since the previous CMD.
- ii. The Applicants hope an eviction order is granted.
- iii. The Applicants are conscious of the effect these proceedings are having upon the Respondent and her children. The Applicants are affected too. Everyone is in limbo and it's not easy.
- iv. The Respondent has been brave in opening up about her circumstances. The situation must be stressful and Ms Turner hopes the agencies involved are giving the Respondent the support she needs.
- v. The Applicants are finding the situation stressful too. They did not want to uproot the Respondent and her family. They would have liked to sell the Property a couple of years ago.
- vi. The tenancy is now 9 years old and everyone's circumstances have changed.
- vii. There is a serious property shortage in the public sector and only those with an eviction order will be prioritised.
- viii. The current temporary legislation leaves everyone in limbo for 6 months.

At the CMD the Respondent made the following submissions:-

- i. She checks East Renfrewshire Council's online portal every Wednesday at 12noon to see if any suitable properties are available. There is never anything suitable available.
- ii. She would like to stay in Newton Mearns.
- iii. Private lets are too expensive.
- iv. It is a relief that the enforcement of eviction orders has been postponed to March 2024. She appreciates the extra time that gives her to find other accommodation.
- v. Her 12 year old son is struggling at secondary school. He has started refusing to attend. It's very stressful. She has no particular routine as a result. Both the school and social work department are involved.
- vi. She is looking for accommodation everywhere in East Renfrewshire. She would consider Thornliebank. She feels sure that she would succeed in a placing request to support her 12 year old son in staying at his current secondary school. She would not want to move him again. He has not yet been diagnosed as autistic. There is a 2 year waiting list for an assessment. The school is aware of his position.

## **Findings-in-Fact**

- i. The parties entered into a Short Assured Tenancy ("SAT") relative to the Property that commenced on 28 January 2014. The initial term ended on 28 July 2014 and the tenancy continues on a month to month basis. The rent agreed to be payable under the SAT was initially £560 per calendar month.
- ii. The rent is now £595 per calendar month.
- iii. On 17 February 2023, the Applicants per their representative served on the Respondent by recorded delivery post a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") requiring the Respondent remove from the Property by 28 April 2023.
- iv. The Applicants per their representative served on East Renfrewshire Council by recorded delivery post a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- v. The Respondent remains in occupation of the Property.
- vi. The Applicants are of pensionable age and are both in their 60s.

- vii. The Applicants live on a small boat in Spain. It is cheaper for them to live on the boat. They have lived there for at least 9 years.
- viii. The Applicants now want to sell the Property and use the proceeds to purchase a home back in the UK, probably in England.
- ix. The Property has no mortgage.
- x. They have no other properties.
- xi. The Applicants were not fully aware of the demands of being landlords when the Property was first let out.
- xii. The financial position is tight for them and they no longer want to continue with that burden.
- xiii. The Respondent's rent is up to date.
- xiv. The Respondent is a single parent. She has mental health issues and bipolar disorder.
- xv. The Respondent occupies the Property with her two sons. The Respondent's eldest son is 17 years of age and suffers from anxiety. Her youngest son is 12 years of age and is being assessed for autism. There is a 2 year waiting list for the assessment.
- xvi. The Respondent does not work. She receives Employment Support Allowance, Child Benefit , Child Tax Credits and Personal Independence Payments.
- xvii. The Respondent's youngest son receives Child Disability Payment. He has started first year in secondary school.
- xviii. The Respondent's eldest son has started a college course.
- xix. The Property is a mid-terraced house with 2 bedrooms, a bathroom, living room and kitchen and gardens to the front and rear.
- xx. The Respondent has been looking online for properties. She cannot afford a two bedroom property on a private basis. She has also joined Barrhead and Link Housing Associations but nothing is presently available. Both Housing Associations are aware of the Respondent's circumstances. The Respondent has been in contact with East Renfrewshire Council. They have no suitable properties available and no temporary furnished accommodation.
- xxi. Having regard to the emergency measures introduced by the Cost of Living (Tenant Protection)(Scotland) Act 2022 being extended to 31 March 2024 it is reasonable to grant an eviction order.

### **Reasons for Decision**

There were no matters of dispute between the parties. Both parties had conducted themselves in a very considered and fair manner relative to the interests of each other.

However, the Applicants seek an eviction order. They are elderly. They have no other heritable property and wish to return to the UK to live permanently. They require to sell the Property to purchase a home.

The Respondent does not oppose an eviction order being granted. The Respondent is doing her very best to find alternative accommodation. The eviction order will assist her in that task within the public sector. The extension of the temporary pause on the enforcement of eviction orders introduced by the Cost of Living (Tenant Protection)(Scotland) Act 2022 to 31 March 2024 will give the Respondent time to secure suitable alternative accommodation.

Balancing the interests of the parties and in the particular circumstances it is reasonable to grant an eviction order.

**Decision**

The Tribunal granted 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.**

**Legal Member:**



**27<sup>th</sup> September 2023**