



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/23/1872

Re: Property at 57 Buchandyke Road, Calderwood, East Kilbride, G74 3BN (“the Property”)

Parties:

Mr Kenneth Fairlie and Mrs Pauline Fairlie, 2 Waterfoot Row, Clarkston, Glasgow, G76 8RY (“the Applicants”)

Miss Joanna Murphy, 57 Buchandyke Road, Calderwood, East Kilbride, G74 3BN (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

- Background
 1. An application dated 5 June 2023 was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondent upon termination of a short assured tenancy agreement.
- The Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 4 September 2023. The Applicants were represented by their letting agent, Diane Paterson of Castle Letting Agency. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Sheriff Officer on 2 August 2023. The Tribunal was accordingly satisfied that the

Respondent had been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondent's absence.

3. The Applicants' representative moved for the order for repossession to be granted as sought. The parties had entered into a Short Assured Tenancy Agreement which commenced 16 October 2015. The Applicants had served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") on the Respondent. The Respondent had failed to remove from the Property and continued to reside therein. The Applicants required repossession of the Property in order to sell same. The Applicants had a few rental properties and had decided to sell their properties in order to vacate the rented sector. The Applicants' representative submitted that the Respondent had indicated that she wished to be rehoused by the Local Authority and had been trying for some time to be allocated a council house, without success. It was submitted that the Respondent had been advised by the Local Authority that her prospects of being rehoused would improve were an eviction order to be granted by the Tribunal. The Applicants' representative submitted that the Respondent was a single person with no dependants, and was not believed to be employed.

- Findings in Fact

4. The Tribunal made the following findings in fact:

- (i) The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 16 October 2015 and with an end date of 17 April 2016. Thereafter, if the Agreement is not brought to an end by either party it will run on a monthly basis until ended by either party;
- (ii) A Notice to Quit and notice under section 33 of the 1988 Act were served on the Respondent on 1 March 2023 by recorded delivery post;
- (iii) The Notice to Quit and notice under section 33 of the 1988 Act required the Respondent to remove from the Property by 17 May 2023;
- (iv) The Respondent has failed to remove from the Property and continues to reside therein.

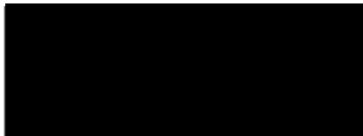
- Reasons for Decision

5. The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met, namely that: the tenancy had reached its end; tacit relocation was not operating; a notice had been served in terms of that section giving at least 2 months' notice; and it is reasonable to grant the order. The Tribunal noted the position put forward by the Applicants' representative that the Respondent wished to be rehoused by the Local Authority, and that she was a single person with no dependants.

- Decision
6. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

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/Chair

Date: 4 September 2023