



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/22/3454

Re: Property at 33 Evelyn Terrace, Perth, PH2 0BS (“the Property”)

Parties:

Mrs Mary Elizabeth MacLaren or Laing, West Boghall, Rait Road, Perth, PH2 7PP (“the Applicant”)

Ms Angela Birrell, Mr Drew Cooney, 33 Evelyn Terrace, Perth, PH2 0BS (“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”) decided to grant the Application and made an Eviction Order.

Background

The Applicant seeks an Eviction order under s33 of the Act.

The Application is accompanied by a copy of the relevant short-assured tenancy agreement, the notices under s33 of the Housing (Scotland) Act 2022 Act and the Notice to Quit, proof of service of the notices and evidence of compliance with 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 2pm on 20 January 2022. The Applicant was represented by Mr Mellis of Thornton's LLP and the Respondents were personally present. Both parties were ready to proceed.

The Tribunal heard from Mr Mellis and the Respondents and carefully considered the substance of the Application together with the reasonableness or otherwise of making any order. Having done so, the Tribunal made the following findings in fact.

- I. *The Applicant and the Respondents entered into a tenancy agreement whereby the Applicant let the Property to the Respondents on a short-assured tenancy agreement that commenced on 1 March 2009;*
- II. *The Applicant served a Notice under s33 of the Housing (Scotland) Act 1988 together with a Notice to Quit on the Respondents on 4 February 2022;*
- III. *These Notices called upon the Respondents to remove themselves from the Property on 2 September 2022 – which tied in with the ish date of the tenancy;*
- IV. *The Applicant has complied with s 11 of the Homelessness (Etc) (Scotland) Act 2003;*
- V. *The Applicant wishes to evict the Respondents because they wish to sell the Property;*
- VI. *The Applicant wishes to sell the Property because she wishes to retire from being a landlord and use the funds released to pay off the mortgage on their own principle residence;*
- VII. *The Applicant has complied with the terms of s33 of the Act prior to bringing this Application and almost a year has passed since the serving of notices to end the tenancy;*
- VIII. *The Property has two bedrooms and is currently occupied by the Respondents and their three children, aged 18, 20 and 22;*
- IX. *Both Respondents currently work and their children do not contribute financially to the running of the family home;*
- X. *The Respondents pay a contractual monthly rent of £600.00 which is a sum that has not been increased since the tenancy was created in 2009;*

- XI. *The Respondents accept the motivations of the Applicant to sell the Property as being genuine but are anxious about finding alternative accommodation;*
- XII. *The Respondents consider alternative properties to be expensive compared to their existing situation but are prepared to move outwith their current location to secure alternative accommodation;*
- XIII. *The Respondents believe that they might be given priority on the local authority housing list if they are evicted but they are not sure about this;*

Decision

The Tribunal was sympathetic to the Respondents' situation. They were facing being evicted with their (albeit older) children from their family home since 2009. The Respondents had not done anything wrong and there was nothing to suggest that they had not been ideal tenants. The issues that the tribunal had to resolve though involved determining whether the statutory test for eviction was made out and whether it was reasonable to grant the Eviction Order sought. The Tribunal had no reason to doubt that the statutory test was established. The Tribunal accepted that granting an eviction order may cause some disruption and inconvenience to the Respondents. It may even cause them some degree of financial prejudice given the attractive level of rent they currently paid at the Property. The Tribunal however could not conclude that this crossed the threshold of making it unreasonable to grant the order sought. The Tribunal considered that it was reasonable to grant the order and accordingly granted the Application.

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

20 January 2023
Date