

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/22/2025

Re: Property at 28 Calfhill Road, Pollok, Glasgow, G53 5YJ (“the Property”)

Parties:

Ms Mairi MacLennan, 129 Craigton, Castlebay, HS9 5XS (“the Applicant”)

Amari Ali, 28 Calfhill Road, Pollok, Glasgow, G53 5YJ (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property on the basis that the tenancy had been terminated in terms of Section 33 of the Housing (Scotland) Act 1988 (“the Act”).
2. By decision dated 11 August 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant’s representative on 11 August 2022. The Tribunal intimated the application to the parties by letter of 31 August 2022 and advised them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were

also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 21 September 2022. No written representations were received by the Tribunal.

The case management discussion

4. The case management discussion took place by conference call. The Applicant was represented by Mr Trotter and he was accompanied by an observer, Mr Bar. The Respondent was represented by Ms Berry.
5. The Respondent's representative explained that the application is not opposed. However, the Respondent has not yet secured alternative accommodation for her and her children. She is self employed and her business is located near the property. The Respondent's brother has made an offer to buy the property. The Applicant's representative explained that the Applicant made the decision to terminate the tenancy because she needs to sell the property due to financial pressure. The Applicant has an estate agent ready to market the property in the event that the Applicant obtains vacant possession. The Applicant's representative was unaware of an offer having been made by the Respondent's brother to purchase the property. An eviction order was sought on the basis that the requirements of section 33 of the Act have been met: the tenancy has reached its end, tacit relocation is not operating and there is no contractual tenancy. It was submitted that in all of the circumstances, it was reasonable to grant an order for eviction.

Findings in Fact

6. The parties entered into a short assured tenancy dated 5 June 2017.
7. The initial term of the tenancy was from 5 June 2017 to 5 December 2017.
8. After the initial term, the tenancy continued on a two monthly basis.
9. The Applicant's letting agent served the Notice to Quit and Section 33 Notice on the Respondent by recorded delivery post on 18 October 2021.
10. The short assured tenancy had reached its end.
11. Tacit relocation was not operating.
12. No further contractual tenancy is in operation.

Reason for Decision

13. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Tribunal was

satisfied that a valid notice to quit and section 33 notice were served. It was satisfied that the tenancy had been terminated in accordance with section 33 of the Act and that no further tenancy was in operation. The application for eviction was not opposed by the Respondent. The Tribunal took account of the personal and financial circumstances of the parties as narrated by their representatives. The Tribunal was persuaded that on balance, it was reasonable to grant the order evicting the Respondent from the property.

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.

Nicola Irvine

Legal Member/Chair

18 October 2022
Date