



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/23/0482

Re: Property at 7 Ganton Court, Kilwinning, KA13 6QT (“the Property”)

Parties:

Mrs Karen Cruickshanks, 17 Fairways, Irvine, KA12 8TE (“the Applicant”)

Mrs Karen Oregan, 7 Ganton Court, Kilwinning, KA13 6QT (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Gerard Darroch (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 for an order to evict the Respondent from the property.
2. By decision dated 16 May 2023, a Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 19 June 2023 informing both parties that a CMD had been assigned for 31 July 2023 at 10am, which was to take place by conference call. 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.

The case management discussion

4. The CMD took place by conference call. The Applicant joined the conference call and represented herself and the Respondent was represented by Mr Alister Meek from Community Housing Advocacy Project. The Applicant explained that she wishes to recover possession of the property to allow her son to live there. Her son sold his property last year and does not have anywhere else to live. The Respondent's representative explained that the application is not opposed. The Respondent has already made an application to the local authority for alternative accommodation. The Respondent lives in the property with her 2 adult children. There are no health issues or vulnerabilities affecting anyone in the household.

Findings in Fact

5. The parties entered into a short assured tenancy which commenced 7 October 2012.
6. The Applicant served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by recorded delivery on 2 February 2022.
7. The short assured tenancy had reached its end.
8. Tacit relocation was not operating.
9. No further contractual tenancy is in operation.

Reason for Decision

10. The Tribunal proceeded on the basis of the documents and the submissions made at the CMD. The Respondent did not oppose the application. The Tribunal was satisfied that the conditions of section 33 had been met and that it was reasonable in the circumstances to grant the order evicting the Respondent from the property. Accordingly, the Tribunal granted the order for eviction.

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

31 July 2023

Date