



**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/22/3753

Re: Property at 71 Towerhill Crescent, Inverness, IV2 5GZ (“the Property”)

Parties:

**Mr Graham Watson, Mrs Anne Watson, Taft, Charleston, North Kessock,
Inverness, IV1 3YA (“the Applicant”)**

**Mr William McMillan, 71 Towerhill Crescent, Inverness, IV2 5GZ (“the
Respondent”)**

Tribunal Members:

Richard Mill (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an eviction order be granted against the respondent**

Introduction

1. This application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order.
2. The applicants were represented by Mr Graham Loughton of Messrs Macleod & MacCallum, solicitors. The respondent failed to participate in the teleconference hearing. There was no known reason for his failure to participate. Sheriff Officers intimated the application and hearing details to him on 30 November 2022.

Findings and Reasons

3. The property is 71 Towerhill Crescent, Inverness IV2 5GZ.

4. The applicants are Mr Graham Watson and Mrs Anne Watson. They are the heritable proprietors and registered landlords of the property. The respondent is Mr Willaim McMillan who is the tenant.
5. The parties entered into a short assured tenancy which commenced on 4 June 2015. An AT5 was timeously served in advance of the tenancy commencing.
6. Despite the terms of the written lease all eviction grounds are now discretionary. Additionally, the notice period to bring the tenancy to an end had been extended due to the coronavirus pandemic. The relevant notice period at the time that the Notice to Quit was served was one of 6 months.
7. On 28 January 2022 the applicants served the Notice to Quit. The applicants gave notice to the respondent that he would require to remove from the property on or before 4 August 2022. Further, on 28 January 2022 the applicants served upon the respondent Notice under Section 33(1)(d) of the Housing (Scotland) 1988 stating that possession was required of the property as at 4 August 2022. There is evidence that these documents, and covering letter, were posted by recorded delivery on 28 January 2022 and evidence from the post office track and trace system that the respondent signed for delivery of the items on 29 January 2022. More than 6 months' notice was given.
8. The short assured tenancy between the parties reached its ish as at 4 August 2022. Tacit relocation is not operating. No further contractual tenancy is in existence. The applicants have complied with the terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.
9. The Tribunal proceeded to consider the issue of reasonableness.
10. The respondent is in significant arrears of rent. As at the date of hearing these total over £2,100. It is unreasonable to expect the applicants to maintain the property for the respondent in the absence of him making rental payments.
11. The applicants own another property in the same block, 69 Towerhill Crescent, which is situated below the let property occupied by the respondent. On or about 21 November 2021 the respondent was involved in an anti-social dispute with the then tenants of number 69 such that the Police required to be summoned. Following serious threats made to the occupiers of number 69 they left the property. The relationship between the parties has broken down irretrievably due to this incident. The applicants intend to sell both properties once vacant possession of the let property has been gained form the respondent.
12. The applicants have served a valid Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003. In the event of an eviction order being granted the local authority have an obligation to make alternative accommodation available for the respondent.

13. The respondent has not opposed this eviction application. He is known to be aged around 44 years of age and is employed on a full time basis in the construction industry. He lives alone and has no known dependents, disabilities or other vulnerabilities.

14. In all of the circumstances it is reasonable to grant the 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.

24 January 2023

Legal Member/Chair

Date