



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 (Act)

Chamber Ref: FTS/HPC/EV/23/2356

Re: Property at 4/7 Inglis Green Gait, Edinburgh, EH14 2LG (“the Property”)

Parties:

Ms Dorothy Cottrell, 123 Avda. Che Guevara, Bastiagueiro-Olerios, A Coruna, Spain, 15179, Spain (“the Applicant”)

Mr Darren Bell, Ms Kirsty Ann Robinson, 4/7 Inglis Green Gait, Edinburgh, EH14 2LG (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 18 July 2023;
2. AT5 and SAT commencing 9 October 2010;
3. Notice to Quit dated 1 May 2023;
4. Section 33 Notice dated 1 May 2023;
5. Statement from Landlord;
6. Section 11 Notice and email serving on local authority dated 17 July 2023;
7. Certificate of Service of CMD Notification on Respondents dated 8 October 2023.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 22 November 2023. The Applicant did not participate but was represented by her Letting Agent. The Respondents participated and represented themselves.

The Respondents confirmed that they possessed a Minute to Vary the SAT in 2013 which included Ms Kirsty Ann Robinson as a tenant.

The Tribunal granted the Applicant's Letting Agent's motion to amend the application to include Ms Robinson on the basis that the Notices had all been served on her and the section 11 Notice included her details.

The Tribunal was informed by the Respondents that they had been making every attempt to secure alternative accommodation. They had contacted the local authority and were monitoring the local private rented sector market and had applied (unsuccessfully) for a couple of properties.

They have a 6 year old son who attends a local school.

The Respondents wished to move but simply hadn't been able to obtain accommodation.

The Tribunal explained that any order granted would be subject to the provisions of the **Cost of Living (Tenant Protection) (Scotland) Act 2022** and that meant that the Applicant could not take steps to enforce recovery of possession until the expiry of 6 months after the grant of the order or the repeal/expiry of the Act (whichever was the sooner). It was explained that the Act was due to expire at the end of March 2024.

In light of that the Respondents believed this would assist with obtaining alternative accommodation through the local authority and that they would be given priority.

Decision and Reasons

The Tribunal considered the oral and documentary evidence from the Parties. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a SAT commencing 18 July 2010;
2. An AT5 had been served prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served dated 1 May 2023;
4. Section 11 Notice had been served on the local authority;
5. The SAT had reached its term and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicant had given the Respondents notice that they required possession;
9. The Applicant required to recover possession of the Property to sell it.

The Tribunal considered all of the evidence and submissions.

The Tribunal were satisfied that Rule 66 had been complied with.

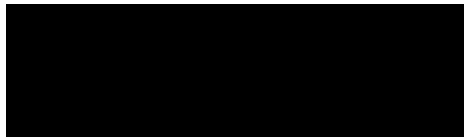
The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Tribunal granted the application for eviction and recovery of possession.

The Tribunal explained to the Applicant's solicitor that the **Cost of Living (Tenant Protection)(Scotland) Act 2022** applied and that meant that the Applicant could not take steps to enforce recovery of possession until the expiry of 6 months after the grant of the order or the repeal/expiry of the Act (whichever was the sooner).

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

22 November 2023

Date