



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/23/2916

**Re: Property at 122/12 Waverley Crescent, Livingston, West Lothian, EH54 8JR
("the Property")**

Parties:

**Mr James Galbraith, Mrs Moira Galbraith, 1 Stromness Gardens, Livingston,
West Lothian, EH54 9EU ("the Applicant")**

**Ms Kerri Walker, 122/12 Waverley Crescent, Livingston, West Lothian, EH54
8JR ("the Respondent")**

Tribunal Members:

Virgil Crawford (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that**

BACKGROUND

1. By lease dated 15th November 2011 the Applicants let the Property to the Respondent. A notice in terms of s32 of the Housing (Scotland) Act 1988 ("the 1988 Act") was served on the Respondent prior to the lease being signed. The tenancy was, therefore, a short assured tenancy.
2. The Applicant served a notice to quit and a notice in terms of s33 of the the 1988 Act on the Respondent on 6th April 2023.
3. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
4. The Applicants sought vacant possession as they intended to sell the Property.

5. An Application was thereafter presented to the Tribunal seeking an order for eviction.

THE CASE MANAGEMENT DISCUSSION

6. A Case Management Discussion was assigned to be held by teleconference at 2:00pm on 29th January 2024. Initially, only the Applicants were represented, their representative being Mr C McQueenie of Messrs Mavor and Company, letting agents. Initially, in the absence of the Respondent, the Tribunal indicated that it intended granting an order for eviction. The Tribunal, however, was thereafter advised by the clerk that the Respondent had made contact with the Tribunal earlier that day seeking case papers and details to participate in the Case Management Discussion. Having received that information the Tribunal adjourned briefly and, thereafter, the Respondent did, indeed, participate in the Case Management Discussion.
7. Mr McQueenie moved the Tribunal to grant an order for eviction. He advised that the landlords were both retired. They wished vacant possession with a view to selling the property to fund their retirement plans. Upon further enquiry he advised that he understood the Applicants owned 3 separate rental properties. He understood it was their intention to sell all 3. This Property, however, was the first one they had taken steps to recover with a view to a subsequent sale. It was confirmed there was no known financial hardship on the part of the Applicants. There were no significant issues in relation to the tenant and rent had generally been paid on time throughout the tenancy.
8. The Respondent advised the Tribunal of various repairs required at the Property. She advised that there was mould on the windows. She advised there was a hole in the bathroom floor. She was of a view that the windows in the Property may well need replaced as they were single glazed, wooden frame windows. She had raised these repair issues with the landlord and/or their letting agents but the necessary repairs had not been completed.
9. She has lived in the property since 2011. She has a 12 year old daughter at a local high school. This has been the only home her daughter has known.
10. The Tribunal enquired as to whether she was asserting that it was not reasonable for an eviction to be granted. The Respondent advised, however, that she was willing to remove herself from the Property but she was anxious about the process and the timescales involved. She has already been engaging with the local authority. She understands that she may be put in temporary accommodation for a period of time before being allocated her own tenancy. She has also been engaging with housing associations with a view to securing alternative accommodation.
11. After further discussion, it became clear that the Respondent was, indeed, willing to vacate the premises and did not wish to stand in the way in the retirement plans of the Applicants.

12. After further discussion the Tribunal concluded that, having regard to the intentions of the Applicants, the willingness of the Respondent to vacate the premises, but acknowledging her anxiety about the possibility of her becoming homeless within a short period of time and also her desire to minimise any disruption to her daughter's schooling, the Tribunal concluded that it was appropriate to grant an order for eviction but to defer the date of enforcement until 28th June 2024 at 12:00pm.

FINDINGS IN FACT

13. The Tribunal found the following facts to be established: -

- a) By lease dated 15th November 2011 the Applicants let the Property to the Respondent.
- b) A notice in terms of s32 of the 1988 Act was served on the Respondent prior to the lease being signed. The tenancy was, therefore, a short assured tenancy.
- c) The Applicant served a notice to quit and a notice in terms of s33 of the the 1988 Act on the Respondent on 6th April 2023.
- d) A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
- e) The Applicants sought vacant possession as they intended to sell the Property.
- f) The Applicants are not suffering financial hardship.
- g) The Respondent has lived at the Property since 2011.
- h) The Respondent has a 12 year old daughter who attends a local high school.
- i) The Respondent has been engaging with the local authority and housing associations with a view to securing alternative accommodation. She is willing to remove herself from the Property.
- j) Despite that, the Respondent is anxious about becoming homeless and requiring to reside in temporary accommodation in the near future. Separately, she is keen to minimise disruption to her daughter's schooling.
- k) In all the circumstances it is reasonable that an eviction order is granted.
- l) It is also reasonable that the date of enforcement is deferred until 28th June 2024 to enable the Respondent's daughter to complete her school year and to afford the Respondent a longer period of time to secure suitable alternative accommodation.

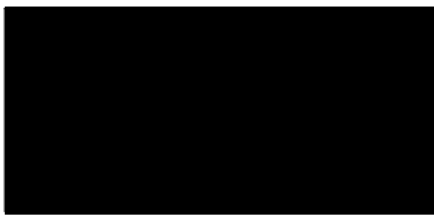
DECISION

The Tribunal granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

Order not to be executed prior to 12 noon on 28th June 2024

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

29th January 2024

Date