



**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/23/3370**

**Re: Property at Flat 0/2 101 Forth Street, Glasgow, G41 2TA (“the Property”)**

**Parties:**

**Mr Abdur Hameed, Mr Abdullah Hameed, Miss Ayesha Hameed, Flat 0/1 204 Deanston Drive, Glasgow, G41 3JU (“the Applicant”)**

**Mr Charles Mortimer, Flat 0/2 101 Forth Street, Glasgow, G41 2TA (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicants.**

**Background**

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act. An application was received by the Housing and Property Chamber dated 22<sup>nd</sup> September 2023.
2. On 30<sup>th</sup> November 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 29<sup>th</sup> January 2023 at 11.30am by teleconferencing. The letter also requested all written representations be submitted by 21<sup>st</sup> December 2023.

3. On 1<sup>st</sup> December 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent personally. This was evidenced by Certificate of Intimation dated 1<sup>st</sup> December 2023.

#### Case Management Discussion

4. A Case Management Discussion (“CMD”) was held on 29<sup>th</sup> January 2023 at 11.30am by teleconferencing. The Applicants were not present but were represented by Mr Atif Ahmed, The Property Store. The Respondent was not present and was not represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the hearing.
5. Mr Ahmed said that the Applicants inherited the Property in 2005 along with their late sister who died in 2014. There is substantial work that needs to be done to the Property. The Applicants are not in a position to fund these works and wish to sell the Property. They do not intend to undertake any of the works prior to sale. They no longer wish to be landlords. It is not an investment for them especially given the repairs.
6. Mr Ahmed has advised the Applicants to wait until they have vacant possession before starting the sales process as they would have to pay for a home report which was likely to expire before the application had come before the Tribunal. The home report will cost around £500 which is higher than the monthly rent charge. Once the Respondent has vacated they will engage an appropriate estate agent.
7. Mr Ahmed said that the Respondent has let a property from him since 2010. He let a property prior to this one to him. Originally the property had been let to the Respondent and his wife. His wife left the Property at the end of 2016/the beginning of 2017. There are no issues with the tenancy or the Respondent. His rent is always paid on time. He lives in the Property with his 7 year old daughter. The Respondent’s mother supports them both and ensures that the Property is tidy. Mr Ahmed spoke to the Respondent 4 days ago when he was in his office paying his rent. The Respondent has spoken to his local authority. The Respondent said that he cannot leave the Property until such time as an order has been granted. He will then be assessed by the homeless department of his local authority.
8. The Tribunal considered that it was appropriate to grant an order for eviction. There were no issues of reasonableness to prevent an order being granted.

#### Findings in Fact

9. The parties entered into a Short Assured Tenancy on 22<sup>nd</sup> November 2014 for a 6 months and on a month to month basis thereafter. The rent payments are £375 per month and due by the 22<sup>nd</sup> day of each month.

10. The Housing and Property Chamber received an Application date 22<sup>nd</sup> September 2023.
11. The Respondents inherited this Property. They do not own any other rental properties. The Property now needs substantial work to be undertaken to it. The Respondents are not in the position to undertake this work. They are to sell the Property as it is without undertaking the work prior to sale.
12. There are no issues with the tenancy or the Respondent.
13. It is believed that the Respondent cannot be rehoused by his local homeless department until an order has been granted by the Tribunal.
14. There are no issues of reasonableness preventing an order being granted.

#### Reasons for Decision

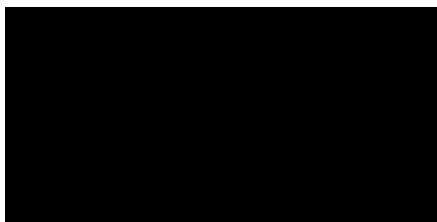
15. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted.

#### Decision

16. The Applicants are entitled to an Order for recovery of possession.

#### **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.**



29<sup>th</sup> January 2024

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Legal Member/Chair

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Date

