

**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/24/2592

Re: Property at 27 Acer Grove, Chapellhall, ML6 8HQ (“the Property”)

Parties:

Miss Candice McCappin, 63 Shankly Drive, Newmains, ML2 9QP (“the Applicant”)

Miss Kathleen McCluskie (formerly Mss Kathleen Cowan) , 27 Acer Grove, Chapellhall, ML6 8HQ (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

Background

1. By application, dated 3 June 2024, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy.
2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 19 September 2017, and copies of a Notice under Section 33 of the 1988 Act and a Notice to Quit, both dated 9 February 2024, and both requiring the Respondent to vacate the Property by 20 April 2024.
3. On 8 November 2024, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 29 November 2024. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 18 December 2024. The Applicant was represented by Mrs Lynne Bridges of S&J Property Letting Ltd, Carlisle. The Respondent was also present.
5. The Respondent told the Tribunal that she was not opposing the application. She had stated in a letter to the Tribunal, which did not appear as yet to have arrived, that she wants to move out and has identified a property that she intends to purchase. She is currently awaiting the formal mortgage offer. She lives in the Property with her two sons, aged 17 and 19 and hoped that the Tribunal would consider allowing her sufficient time to secure the mortgage and move out. Mrs Bridges told the Tribunal that the Applicant would not have a problem in agreeing to a short extension of the normal 30-day period before the Tribunal's Order can be enforced, and the Parties agreed that a date at the end of February 2025 would be reasonable and acceptable.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
7. Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.
8. The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given. The remaining matter for the Tribunal to consider was, therefore, whether it would be reasonable to issue an Order for Possession.
9. In arriving at its decision as to whether it would be reasonable to make an Order for Possession, the Tribunal considered carefully all the evidence before it and noted in particular that the Respondent did not oppose the making of an Order for Possession under Section 33 of the 1988 Act. Accordingly, the Tribunal decided that it would be reasonable to make an Order for Possession of the Property to be enforceable on or after 28

February 2025. The Tribunal stressed that this is a no-fault Order, with no blame attaching to the Respondent.

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.

George Clark

George Clark

Legal Member/Chair

18 December 2024

Date