

Housing and Property Chamber
First-tier Tribunal for Scotland



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 ("the Act")

Chamber Ref: FTS/HPC/EV/18/0017

Re: Property at 60 Sycamore Court, East Kilbride, Glasgow, G75 9JT ("the Property")

Parties:

Mrs Carol Mathieson, 17 Westport, East Kilbride, Glasgow, G75 8QR ("the Applicant")

Mr Stephen Rae, Mrs Kelly Rae, 60 Sycamore Court, East Kilbride, Glasgow, G75 9JT ("the Respondents")

Tribunal Members:

Steven Quither (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an Order for Possession is granted under s33 of the Act

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") on behalf of the Applicant as owner for an order for possession of the Property.
2. The tenancy was a short assured tenancy of the Property by Carol and John Mathieson, (spouses), the then registered proprietors of the Property as landlords and the Respondents as tenants commencing on 16 October 2014 and continuing thereafter by tacit relocation. Mr. Mathieson is now deceased, having passed away on 9 July 2017, per copy Death Certificate, lodged subsequent to the application being made.

3. An application comprising:-
- i) Completed application form signed by AiA Real Estate Ltd, 153 Queen Street, Glasgow ("AiA") as Representatives of the Applicant, dated 22 December 2017;
 - ii) Copy AT5 and (by virtue thereof and the clearly expressed intention of the parties to the Agreement, Short Assured) Tenancy Agreement between AiA on behalf of Mr & Mrs Mathieson and the Respondents, dated 16 October 2014.;
 - iii) Copy Notice to Quit with appropriate prescribed information and s33 Notice, with confirmation from AiA that these were served on the Respondents on 13 September 2017, giving them notice to leave the Property by 16 November 2017;
 - iv) Copy notice in terms of section 19 of the Act, commonly known as "AT6", relying on Ground 1(b) of Schedule 5 of the Act, again with appropriate confirmation from AiA as to service etc. on 13 September 2017;
 - v) copy section 11 notice in terms of the Homelessness Etc. (Scotland) Act 2003, to the appropriate local authority for the area relative to the Property again with confirmation from AiA as to service on or before the date of the application;
 - vi) Rent Increase Notice
 - vii) Applicant's Letter of Authority in favour of AiA, as her representatives.
- ("the Application") was lodged with the Tribunal on or about 22 December 2017.
4. The Application and notice of a Case Management Discussion of the First-tier Tribunal for Scotland Housing and Property Chamber to be held at 10.00 am on 12 April 2018 at the Glasgow Tribunals Centre, 20 York Street, Glasgow was served on the Respondents by Walker Love, Sheriff Officers, on 20 March 2018 and Certificates of Service were lodged with the Tribunal.

Case Management Discussion

5. Said Case Management Discussion ("CMD") took place before me at 10 am on 12 April 2018 at the Glasgow Tribunals Centre, 20 York Street, Glasgow. Neither the Applicant nor the Respondent was present. The Applicant was represented by Adeel Asghar, Alessia Zito and Nebojsa Vukojicic from AiA.
6. I was advised that the Applicant wished to move back into the Property following the death of her husband since it was more suitable for her changed needs. She had also become aware of certain information regarding personal difficulties faced by at least one of the Respondents which had adversely affected her view as to the desirability of them remaining as tenants. There had been some discussions between AiA and the Respondents as to them vacating the Property on a voluntary basis but this had not resulted in resolution of the issue, hence these proceedings. I

was advised, however, that the Respondents had now moved out and were believed to be living in either Hamilton or Cumbernauld. Nonetheless, for security, the Applicant was still seeking the order for eviction.

Findings in Fact

7. The Application lodged on behalf of the Applicant appeared to me, from the documentation lodged and information provided to me at the CMD, to meet all relative requirements as to notice, intimation etc. both in respect of the Act and the Rules. Service was effected on the Respondents with sufficient notice of the CMD on 12 April 2018.
8. The Respondents did not lodge any written representations or appear at the CMD to make any verbal representations regarding the order sought.
9. In these circumstances, I was satisfied it was appropriate for me to make the order sought, which I duly did. Since I could do so on the basis of the Notice to Quit and s33 Notice, I clarified that the Applicant was not insisting on the Schedule 5 ground.

Reasons for Decision

10. My decision was based on the Application and the submissions made at the CMD and also that no representations to the contrary were made either in writing or at the CMD. With reference to Rule 17(4) of the Rules, I decided I could make the order for possession sought and accordingly now do so in terms of s33 of the Act.

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.

Steven Quither

Legal Member/Chair

Date

12 APRIL 2018