

**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/23/1181

**Re: Property at 16 Mansfield Way, Girdle Toll, Irvine, North Ayrshire, KA11 1PX
("the Property")**

Parties:

**Mr Lee Jones and Mrs Claire Jones, both 13 Whieldon Grane, Harlow, Essex,
CM17 9WG ("the Applicants")**

**Miss Martine Wayne, 16 Mansfield Way, Girdle Toll, Irvine, North Ayrshire,
KA11 1PX ("the Respondent")**

Tribunal Members:

George Clark (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. By application, received by the Tribunal on 13 April 2023, the Applicants 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 8 August 2013 and if not ended on 8 August 2024, continuing on a monthly basis thereafter unless a replacement fixed term tenancy was signed. The rent was stated to be £450 per month. The Applicants also supplied copies of a Notice given under Section 33 of the 1988 Act and a Notice to Quit, both dated 6 January 2023, and both requiring the Respondent to vacate the Property by 8 April 2023, with evidence of delivery of both Notices by sheriff officers on 10 April 2023.

3. The Applicants stated that they intend to sell the Property and wish to terminate the tenancy on the ground of termination of a Short Assured Tenancy.
4. On 31 May 2023, 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 21 June 2023. On 21 June 2023, Mr Alister Meek of CHAP, Ardrossan, e-mailed the Tribunal on behalf of the Respondent to say that neither he nor the Respondent would be able to attend the case Management Discussion but that the Respondent wished the application to move forward in her absence. The Respondent was not opposing the application and would be assisted by CHAP and would be offered a new tenancy by the local authority.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 4 July 2023. The Applicants were represented by Miss Kim McKenzie of Homesure Portfolio Management, Dundonald. The Respondent was not present or represented.
6. The Tribunal Chair advised the Parties that, as the Section 33 Notice and the Notice to Quit had been validly served, the only matter for consideration was whether it would be reasonable to make an Order for Possession.
7. Ms McKenzie advised the Tribunal that the Applicants were in the position of having to sell both of their rented properties, because of increasing monthly mortgage payments.

Reasons for Decision

8. 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 sufficient information and documentation to enable it to decide the application without a Hearing.
9. 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.
10. 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.

11. The Tribunal considered carefully all the evidence before it and noted in particular that the Respondent did not wish to oppose the application and is receiving assistance from CHAP, who had confirmed that she will be offered a new tenancy by the local authority. The Applicants had also clarified their reason for wishing to recover possession, namely to enable them to sell the Property due to rising mortgage costs. On the basis of the information before it, the Tribunal was satisfied that it was reasonable in the particular circumstances of the case to make an Order for Possession.

12. The application is affected by The Cost of Living (Tenant Protection) (Scotland) Act 2022.

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

Legal Member/Chair

4 July 2023
Date