



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/23/1719

Re: Property at 29E Rothesay Place, Musselburgh, East Lothian, EH21 7EX (“the Property”)

Parties:

Mr Bruce Ormiston, 4 Ladhope Crescent, Galashiels, TD1 2BN (“the Applicant”)

Ms Chloe Mooney, 29E Rothesay Place, Musselburgh, East Lothian, EH21 7EX (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[1] The Applicant seeks an Eviction Order under s 33 of the Act. The Application is accompanied by a copy of the tenancy agreement between the parties, the notice served under s33 of the Act and the relevant notice to quit with proof of service. There is also the notice served under s11 of the Homelessness (etc) (Scotland) Act 2003.

The Case Management Discussion

[2] The Application called for a Case Management Discussion (CMD) by conference call at 2pm on 30 August 2023. Both parties were present. The Applicant spoke to his position outlined in the Application that he required to sell the Property to release funds necessary to conclude a divorce settlement. The Respondent had received the Application and was not looking to contest matters. The Tribunal fully discussed the Respondent's circumstances and ensured that any decision made was with careful regard to the Respondent's personal circumstances.

[3] Having heard from parties, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent under a Short assured tenancy agreement;*
- II. *The Respondent has separated from his wife and requires to sell the Property to release funds that will allow his divorce settlement to progress;*
- III. *The Applicant has competently served a notice under s 33 of the Act together with a notice to quit on the Respondent;*
- IV. *The Applicant has complied with s11 of the Homelessness (etc) (Scotland) Act 2003;*
- V. *The Respondent lives at the Property with her nine-year-old daughter;*
- VI. *There are good prospects that moving house will not affect the Respondent's schooling decisions in respect of her daughter;*
- VII. *The Respondent has carefully considered her options and will likely receive support from the local authority for her finding alternate accommodation;*

Decision

[4] Having made the above findings in fact, the Tribunal considered that s33 of the Act was established and that it was reasonable to make an Eviction Order. The Tribunal granted the Application.

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.

A McLaughlin

Legal Member/Chair

30 August 2023

Date