



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/22/1076

Re: Property at 2/2 68 Fergus Drive, Glasgow, G20 6AP (“the Property”)

Parties:

Coatbridge Property & Investment Co. Ltd, 40 Carlton Place, Glasgow, G5 9TW (“the Applicant”)

Mr Gary Stevens, 2/2 68 Fergus Drive, Glasgow, G20 6AP (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a possession order in terms of Section 33 of the Housing (Scotland) Act 1988 be made in relation to the property having found that it is reasonable to make the order.

Background

1. This application for a possession order in terms of Rule 66 of the Tribunal rules of procedure was first received by the Tribunal on 11th April 2022 and was accepted by the Tribunal on 24th May 2022. A case management discussion was set down for 5th August 2022 at 10am.

2. The Case management discussion was attended by Miss Currie of Happy Lets Ltd who represent the Applicant. The Respondent attended the case management discussion and represented himself.

3. The Tribunal had sight of the application, a short assured tenancy, a Form AT5, a Notice to Quit, a Notice in terms of Section 33 of the Housing (Scotland) Act 1988,

proof of delivery of these notices, a letter sent to the Respondent, a Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 and an email to Glasgow City Council intimating this Notice.

4. Miss Currie 's position was that substantial repairs were required at the property and the landlord wanted to carry these out. She understood that the Respondent wanted to leave the property. It was the requirement for work to be done that had caused the landlord to seek a possession order for the property.

5. The Respondent Mr Stevens indicated that extensive work required to be done at the property and he worked night shifts. He wanted to live somewhere which he described as " nicer" and not to continue to live in a place he said was substandard. A possession order would assist with his search for alternative housing with a housing association. He did not object to a possession order being made and wanted the matter dealt with as soon as possible.

6. The Tribunal considered the section 33 Notice, Notice to Quit and section 11 Notice lodged and these appeared to be in proper form and appropriate notice periods had been given.

Findings in Fact

7. The parties entered into a short assured tenancy with effect from 11th July 2013 and the tenancy was to continue until 10th January 2014.

8. The tenancy missive of let set out that if the agreement was not terminated by either party then the tenancy continued after the first 6 months on a month to month basis.

9. A Notice in terms of Section 33 of the Housing (Scotland) Act 1988 has been served on the Respondent giving an appropriate period of notice and the contractual tenancy has reached its end.

10. Tacit relocation is not in operation.

11. A Notice to Quit in proper form has been served on the Respondent giving the same date to quit the tenancy as the end of the contractual tenancy.

12. A notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 has been intimated to Glasgow City Council in relation to this application.

13. The property requires substantial repairs and the Applicant wishes to carry these out.

14. The Respondent continues to occupy the property but wishes to leave and find other accommodation.

Reasons for Decision

15.The Tribunal found that the statutory requirements had been met in terms of the ending of the contractual tenancy at the correct end date and the Notice to Quit had also been properly served for the correct date. It appeared that the need to carry out repairs and refurbishment had prompted the application and the Respondent did not object and was actively seeking other property. Given that the application presented had complied with the statutory requirements in all aspects and there was nothing before the Tribunal to suggest that the making of a possession order would be in any way unreasonable, the Tribunal considered in all of the circumstances that it would be reasonable to make a possession order for the property.

Decision

The Tribunal granted a possession order in terms of Section 33 of the Housing (Scotland) Act 1988 in relation to the property having found that it is reasonable to make the order.

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.

Valerie Bremner

Legal Member/Chair

5.8.22

Date