



**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/23/1869

**Re: Property at 130 Stamperland Gardens, Clarkston, Glasgow, G76 8LW (“the
Property”)**

Parties:

**Mrs Shenxue Li, Mr Bin Chen, 20 Leeward Road, Rochester, ME1 2NE; 20
Leeward Road, Rochester, ME1 2NE (“the Applicants”)**

**Ms Kim Riley, 130 Stamperland Gardens, Clarkston, Glasgow, G76 8LW (“the
Respondent”)**

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs M Lyden (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for possession should be granted.**

Background

1. This is a Rule 66 application received in the period between 7th June and 5th July 2023. The Applicants are seeking an order for possession of the Property. The Applicants lodged a copy of the short assured tenancy agreement between the parties that commenced on 24th September 2011 until 23rd March 2012 and monthly thereafter, copy Notice to Quit and section 33 notice dated 28th July 2022, copy section 11 notice with evidence of service, and Form AT5.
2. By email dated 5th September 2023, the Respondent lodged written representations.

The Case Management Discussion

3. A Case Management Discussion took place by telephone conference on 11th October 2023. Both parties were in attendance.

The Applicants' position

4. The Applicants stated they were seeking an order for possession so they could sell the Property. They referred to financial difficulties that have arisen since the Covid-19 pandemic, which have affected their employment. Mrs Li is currently in employment, but her employer is facing severe financial difficulty and her employment may not be secure. Mr Chen has not been successful in gaining employment since the pandemic, and he has used up his savings. Both Applicants are required to contribute towards the cost of housing and care for an elderly parent, and they have a son to support. They have mortgage payments to make on their home property.

The Respondent's position

5. The Respondent said she was not opposing the order being granted; however, she had concerns regarding homelessness and accessing suitable housing for her daughter, who has medical needs. The Respondent said she has saved towards a deposit and has been trying to purchase a property, without success. She is in discussion with the local authority and housing associations about securing social housing, and she has been deemed unintentionally homeless. She was offered a property, but she refused it as it was not suitable for her daughter's needs. The Respondent explained the reasons behind the refusal and said she has medical evidence to support the fact that her daughter has certain requirements that should be taken into account when allocating housing. The Respondent is being assisted by her local councillor. The Respondent said she is keen to find a secure and stable forever home for herself and her daughter. She does not want to consider a further private let, due to the lack of security. The Respondent said she was optimistic that an order for possession may assist in giving her greater priority for housing, and she took comfort from the fact that the order could not be actioned prior to the end of March 2024 due to the provisions of the Cost of Living (Tenant Protection) (Scotland) Act 2022.

Findings in Fact and Law

6.
 - (i) Parties entered into a short assured tenancy agreement in respect of the Property that commenced on 24th September 2011 until 23rd March 2012 and monthly thereafter.
 - (ii) Notice to Quit and Section 33 Notice were served on the Respondent.
 - (iii) The short assured tenancy has reached its ish date.
 - (iv) The contractual tenancy terminated on 23rd October 2022.
 - (v) Tacit relocation is not in operation.
 - (vi) The Applicants have given the Respondent notice that they require possession of the Property.
 - (vii) It is reasonable to grant the order for possession.

Reasons for Decision

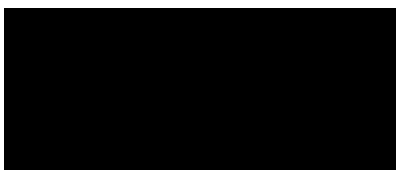
7. Section 33 of the Act provides that the Tribunal may make an order for possession if satisfied that the short assured tenancy has reached its finish, tacit relocation is not operating, the landlord has given notice to the tenant that they require possession, and it is reasonable to make the order.
8. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicants have given the Respondent notice that they require possession of the Property.
9. In considering reasonableness, the Tribunal took into account the compelling circumstances of both parties. The Tribunal was satisfied that the Applicants have considerable financial difficulties at present, and that selling the Property would assist them in meeting their responsibilities. The Respondent has been accepted as unintentionally homeless and she is optimistic that an order for possession may help her priority status, and assist in securing alternative housing which will provide a more secure and stable home for her and her daughter.
10. In all the circumstances, the Tribunal considered it reasonable to grant the order.

Decision

11. An order for possession of the Property is granted under section 33 of the Housing (Scotland) Act 1988. The order is not to be executed prior to 12 noon on the earlier of (a) the day following the end of a period of 6 months beginning with the day on which this order was granted, or (b) the expiry or suspension of Paragraph 1 of Schedule 2 of 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.



**Helen Forbes
Legal Member/Chair**

**11th October 2023
Date**