

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

Chamber Ref: FTS/HPC/EV/18/2199

Re: Property at 64 Waverley Park, Kirkintilloch, Glasgow, G66 2BP (“the Property”)

Parties:

The Church of Scotland General Trustees, 121 George Street, Edinburgh, EH2 4YR (“the Applicant”)

Miss Sehyr Zahoor, Mr Mohammed Zahoor, Mrs Safina Raja, Mrs Alina Zahoor, 64 Waverley Park, Kirkintilloch, Glasgow, G66 2BP (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order is granted against the Respondents for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

- Background

An application was received by the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. Said application was dated 21 August 2018 and sought an order for repossession upon termination of a short assured tenancy.

- Case Management Discussion

A Case Management Discussion took place on 23 November 2018. Ms Killean of the Church of Scotland Law Department represented the Applicant. The Respondents did not appear nor were they represented. The third-named respondent, Safina Raja, had emailed the Tribunal administration on 22 November 2018 at 16.22hrs

seeking a postponement of the Case Management Discussion. Said email stated that her daughters had chicken pox and she could not leave them to attend the case management discussion, and further that they had suffered bereavement in the family. Thereafter, the first-named Respondent, Sehyr Zahoor had emailed the Tribunal administration on 22 November 2018 at 16.53hrs also seeking a postponement of the Case Management Discussion. Said email stated that Mohammed Zahoor had suffered a family bereavement, Ms Zahoor was on a work placement and the remaining Respondents could not attend due to their children having chicken pox. The Tribunal considered the postponement requests and refused same. In terms of Rule 28 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, a party seeking postponement of a hearing must:

- (a) If practicable, notify all other parties of the application for an adjournment or postponement;*
- (b) Show good reason why an adjournment or postponement is necessary; and*
- (c) Produce evidence of any fact or matter relied on in support of the application for postponement.*

The Tribunal was not satisfied from the content of either of the emails sent that either Rule 28(b) or (c) had been complied with. The Respondents had neither shown good reason why the postponement was necessary, nor had they produced any evidence of any fact or matter relied upon in support of their application for postponement. Further, the Respondents had failed to state any defence to the application raised against them, nor lodge any written representations to the application, despite having been served with the application papers on 2 November 2018.

The Applicant sought an order for repossession on the basis that the tenancy was a short assured tenancy, a Notice to Quit and Notice under section 33 of the Housing (Scotland) Act 1988 had been served on each of the respondents requiring their removal from the property and that the respondents had failed to remove. Accordingly, it was submitted that the applicant was entitled to the order sought.

- Findings in Fact

1. The parties had entered into a short assured tenancy which commenced on 16 October 2015. Said tenancy ran to 17 April 2016 and on a two-monthly basis thereafter until terminated by either party.
2. A Notice to Quit and Notice under section 33 of the Housing (Scotland) Act 198 had been served on each of the Respondents bringing the contractual tenancy to an end as at 17 August 2018.
3. The Respondents had failed to remove from the property

- Reasons for Decision

The Tribunal was satisfied that the terms of section 33 of the Housing (Scotland) Act 198 had been met: namely that the tenancy had reached its' ish; that tacit relocation was not operating; that no further contractual tenancy was in existence; and that a

notice had been served in terms of section 33 of the said Act on each of the respondents. No written representations had been lodged by the respondents in relation to the application raised against them, and no proposed defence stated by them. Accordingly, the Tribunal was satisfied that the Applicant was entitled to the Order sought.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondents for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

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.

F Watson

Legal Member/Chair

Date

23/11/18.