

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/23/3821

Re: Property at 5/18 Sailmaker Road, Edinburgh, EH6 7JR (“the Property”)

Parties:

Hillcrest Enterprises Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Mr Livio Rocha, 5/18 Sailmaker Road, Edinburgh, EH6 7JR (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. The applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) by application dated 30 October 2023.
2. Accompany the application were the following:
 - (i) Tenancy Agreement
 - (ii) AT5
 - (iii) Notice to Quit
 - (iv) Section 33 Notice
 - (v) Sheriff officers’ Execution of Service
 - (vi) Section 11 Notice
 - (vii) Email to Local Authority intimating Section 11 Notice
3. The application was received by the tribunal on 31 October 2023. On 16 November 2023 the tribunal accepted the application for determination.

4. The application was served by sheriff officers on 5 January 2024. No written representations were received by the tribunal.

Case Management Discussion

5. At the case management discussion Ms Donnelly solicitor attended on the teleconference on behalf of the applicant. There was no appearance by or for the respondent.

6. Ms Donnelly set out the history of the application. This was not the first application that had been made by the applicant. Attempts have been made to engage with the respondent over a considerable period of time. However the respondent had only engaged sporadically and had not engaged recently at all. He has travelled to Portugal for family reasons at various points in the past year and has been in and out of work. Despite his landlord currently receiving Universal Credit housing element and arrears direct, there is a gap of around £100 per month and with no payments received from the respondent, arrears continue to accumulate. The landlord's tenancy sustainment team successfully applied for grant funding for the tenant and this was put to his rent account, but he did not engage in the process. In August 23 he was warned about trying to sub-let a room on Air B'n'B and did not respond. In November 2023 he refused access for landlord checks, and in January 24 he made his last contact, citing family problems and promising to be in touch about the arrears. Two telephone attempts at contact were made in February and there was no response.

Findings in Fact

7. The short assured tenancy between the parties had reached its ???? at 2 August 2023. Tacit relocation did not operate.

8. The respondent is in arrears of rent to the extent of £2,449.96?

Reasons for decision

9. The respondent had not made any written representations nor did the respondent attend at the case management teleconference.

10. The applicant's solicitor set out the history of the case and the attempts at engagement that had been made. The paperwork was in order. The Notice to Quit had been served. The respondent had not vacated the property.

11. The respondent was a 57 year old single man. No other family members were living in the property. It was a two bedroom property. The landlord is not aware of the respondent having any vulnerabilities. The non payment of rent is not due to delays in the payment of benefits, which continue to be received directly by the landlord.

12. The tribunal accepted the evidence provided in written form by the solicitor for the applicant and granted the order.

Decision

To grant an order of eviction against the respondent.

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.

M Thorley

23rd February 2024

Legal Member/Chair

Date