



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/19/1302

Re: Property at 30 Milton Street, Dundee, DD3 6QQ (“the Property”)

Parties:

Par Residential Investments II LP (Dundee), 3a Dublin Mews, Edinburgh, EH3 6NW (“the Applicant”)

Mr Paul Hart, 30 Milton Street, Dundee, DD3 6QQ (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member)

Decision

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

- **Background**

This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (possession on termination of tenancy in terms of section 33 of the Housing (Scotland) Act 1988. An application dated 29 April 2019 was lodged along with a copy of the tenancy agreement dated 27 February 2015, a copy AT5, a copy section 33 Notice, a copy Notice to Quit, a copy Sheriff Officer’s Certificate of Execution of Service of the Notices, and a copy Section 11 Notice. The application was assigned to a Case Management Discussion today. Notice of the application and documents and today’s Case Management Discussion was served on the Respondent by Sheriff Officers on 21 May 2019. He was advised that he should return any written representations to the Tribunal Office by 7 June 2019. No written representations have been received. The Respondent did email the Tribunal on 27 June 2019 to advise that his wife Mrs Kerri Hart would be attending today’s

Case Management Discussion on his behalf and that he gave her full authority to do so.

- The Case Management Discussion

The Case Management Discussion took place today. Lesley Davie from Direct Lettings (Scotland) Ltd appeared on behalf of the Applicant and Shona Milne from Direct Lettings (Scotland) Ltd was in attendance as a supporter. Kerri Hart attended on behalf of the Respondent. The Tribunal explained the purpose of today's Case Management Discussion. As a preliminary issue, the Tribunal advised Ms Davie that they did not have a letter of authority from the Applicants for her to act on their behalf in respect of this matter. Ms Davie advised that she had sent an email in in this regard. The Tribunal would search the system for this. The Tribunal took Ms Davie through the application and documents before it. Ms Davie had nothing further to add except to say that the rent arrears issue had been resolved. Ms Hart advised that she and the Respondent each had two children and had come together and had another child of their own. On receiving a previous Notice to Quit they had been registered homeless in May last year. They were seeking suitable accommodation. Their son had had a medical examination and they had more points. Ms Hart was having weekly conversations with the Housing Department. If the eviction order was granted they would probably be given temporary accommodation. The last property they had been offered was a 3 bedroom flat. The Respondent's son had recently been diagnosed with Asberger's There was nothing in the paperwork that Ms Hart could dispute. The Tribunal advised that this was a short assured tenancy and, if the requirements of the 1988 Act had been met then the Tribunal had no discretion. In some other types of eviction cases the Tribunal can look at whether it was reasonable for the eviction order to be granted but this was not the case here. A short adjournment took place to allow the Tribunal to search for the email with authority for the Applicant's representative to act but this could not be found on the system. The Applicant's representative was asked to email this again to the Tribunal when she got back to the office so that the decision could be issued. Subsequently an email was received that afternoon showing email correspondence between the Applicant and their representative confirming authority to act in respect of the eviction/repossession action.

- Findings in Fact

1. The parties entered into a short assured tenancy agreement with an initial term from 16 April 2015-16 April 2016. The agreement could be terminated by the Landlord giving two months prior written notice in terms of Clause 36 of the agreement.
2. An AT5 was served prior to the creation of the tenancy.
3. A Notice to Quit asking the Respondent to remove by 16 April 2019 and a section 33 Notice asking the Respondent to remove by 16 April 2019 had been served by Sheriff Officers on 7 February 2019. The tenancy reached its end as at 16 April 2019.

- **Reasons for Decision**

The Tribunal proceeded on the basis of the written documents which were before it and further submissions from both parties. The Respondent did not seek to challenge any of the documents. The requirements of section 33 of the Housing (Scotland) Act 1988 having been met, the Tribunal had no discretion.

- **Decision**

The order for eviction/repossession is granted.

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.

Anne Mathie

Legal Member/Chair

28 June 2019
Date