



**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/22/4007

Re: Property at 26a East King Street, Helensburgh, G84 7QL (“the Property”)

Parties:

**Mrs Aniko Smith and Mr Paul Smith, 33 St Wilfrids Road, Doncaster, DN44 6AA
 (“the Applicants”)**

**Miss Amanda MacKay, 26A East King Street, Helensburgh, G84 7QL (“the
Respondent”)**

Tribunal Members:

Gillian Buchanan (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 10 May 2023, the Applicants were represented by Ms Claudia Hoey of Jones Whyte. The Respondent was neither present nor represented and had lodged no written representations.

The CMD was in respect of this matter and the related case bearing reference FTS/HPC/CV/22/2424.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that:-**

Background

The Tribunal noted the following background:-

- i. The Applicants leased the Property to the Respondent in terms of a Short Assured Tenancy dated 14 August 2014 (“the SAT”) that commenced on 18 August 2014.

- ii. In terms of the SAT the initial term was agreed to be for a period of 6 months ending on 18 February 2015 and the parties agreed the tenancy would continue thereafter on a month to month basis.
- iii. The rent payable in terms of the SAT is £550 per month.
- iv. A deposit of £550 was also agreed to be paid by the Respondent.
- v. On or around 8 August 2022, the Applicants' agent served on the Respondent by recorded delivery post a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") requiring the Respondent remove from the Property by 18 October 2022.
- vi. At that time the rent arrears outstanding and due by the Respondent were £4,775.
- vii. That the Applicants' agent has served on Argyll & Bute Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms Hoey for the Applicants made the following representations in respect of this application and the associated application FTS/HPC/CV/22/2424:-

- i. The rent arrears balance as at the CMD is £10,165 which includes the rent due for May 2023.
- ii. The deposit previously paid by the Respondent in terms of the SAT remains held in a deposit scheme.
- iii. The Respondent continues to live in the Property. She is understood to live there alone.
- iv. The cause of the arrears accruing is not known. There is no known change to the Respondent's employment position and she is not known to be in receipt of benefits.
- v. The Property is not adapted and the Respondent has no known disability or health condition.
- vi. The Applicants have made attempts to speak directly to the Respondent to understand her financial situation. The Respondent has not engaged with them. The Applicants' Letting Agent has also tried to discuss the position with the Respondent with no response.
- vii. The Applicants are "at their wits end". They are feeling the impact of the substantial arrears accrued. They are incredibly distressed and want the Property occupied by a tenant who will pay rent due. There has been no contact from or engagement with the Respondent.
- viii. There is no explanation for the token weekly payments of £5 that the Respondent has been making up to and including 14 February 2023.
- ix. The Applicants seek an eviction order.

Findings in Fact

- i. The Applicants leased the Property to the Respondent in terms of the SAT.
- ii. The SAT commenced on 18 August 2014.
- iii. In terms of the SAT the initial term was agreed to be for a period of 6 months ending on 18 February 2015 and the parties agreed the tenancy would continue thereafter on a month to month basis.
- iv. The rent payable in terms of the SAT is £550 per month.
- v. A deposit of £550 was also paid by the Respondent and is held in an approved tenancy deposit scheme.
- vi. On or around 8 August 2022, the Applicants' agent served on the Respondent by recorded delivery post a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") requiring the Respondent remove from the Property by 18 October 2022.

- vii. At that time the rent arrears outstanding and due by the Respondent were £4,775.
- viii. That the Applicants' agent has served on Argyll & Bute Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- ix. The rent arrears balance as at the CMD is £10,165 which includes the rent due for May 2023.
- x. The Respondent continues to live in the Property.
- viii. The cause of the arrears accruing is not known.
- ix. The Property is not adapted and the Respondent has no known disability or health condition.
- x. The Respondent has not engaged with the Applicant or their agents.
- xi. It is reasonable that an eviction order be granted.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicants within the application papers and orally on their behalf at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Section 33 of the 1988 Act.

The arrears are very substantial. With the exception of a payment of £550 in November 2021 the Respondent has been paying only £5 per week since October 2021. No payments have been made since 14 February 2023. Efforts by the Applicants and their agents to engage with the Respondent have been ignored. The Respondent has made no effort to explain her situation to the Applicants. In these circumstances it is reasonable that an eviction order be granted.

Decision

The Tribunal grants an order for the Respondent's eviction from the Property.

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.

G Buchanan

Legal Member/Chair

10 May 2023
Date