



Statement of Decision 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/17/0514 & 0515

Re: Property at Bridgend House, Kilmichael Glassary, Lochgilphead, PA31 8QA ("the Property")

Parties:

Alexandria Petrie, 2 Les Cotils, Les Grans Vaux, St. Helier, Jersey, JE2 4GF ("the Applicant")

Pauline Everett, Bridgend House, Kilmichael Glassary, Lochgilphead, PA31 8QA ("the Respondent")

Tribunal Member:

Alan Strain (Legal Member)

Decision

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

- **The order for possession of the property be granted; and**
- **The order for payment in respect of rent arrears be granted.**

Background

1. The applications are for an order for possession of the tenancy of the property known as and forming Bridgend House, Kilmichael Glassary, Lochgilphead, PA31 8QA and also for an order for payment in respect of rent arrears outstanding in respect of the tenancy.

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2. An application was submitted to the tribunal by the Applicant on 18 December 2017 setting out that the Applicant sought possession of the tenancy under Section 33 of the Housing (Scotland) Act 1988 and an application of the same date seeking payment of rent arrears in respect of the tenancy.
3. Documents lodged with the Tribunal were the Tenancy Agreement, the Notice to Quit, the AT5, Section 33 Notice, Section 11 Notice, a statement of rent due and confirmation of service of the Notices by recorded delivery.
4. The Tribunal fixed a case management discussion which was intimated to the parties. The Respondent was told in writing by the Tribunal under cover of letters dated 19 January 2018 that written representations in response to the Applications required to be lodged by 6 February 2018. No responses were received. The Respondent was also told that she required to attend the case management discussion and was informed that the Tribunal could make a decision on the Applications at the case management discussion if it considered it had sufficient information and considered the procedure to be fair.
5. The Respondent applied for a postponement of the case management discussion on 12 February 2018 on the basis that her daughter was having a caesarean section and needed her to be there on the date that had been fixed for the case management discussion. The Tribunal issued Directions on 15 February 2018 to the Respondent directing her to provide written confirmation from either her daughter's GP or the hospital as to the appointment and advised that no decision would be made on the postponement request until that was provided.
6. By e-mail of 19 February 2018 the Respondent e-mailed the Tribunal advising that she could not attend the case management discussion as her son and daughter-in-law had had a baby that day (19 February 2018) and she was about to go to Glasgow Maternity Unit and stay in Glasgow for a few days. The Tribunal then wrote to the Respondent by return email advising that the postponement request had been refused and that the case management discussion would be proceeding on 20 February 2018.

7. The case management discussion took place in the absence of the Respondent. No further contact had been received from the Respondent. The Applicant was represented by her solicitor, Mr Alan McDonald. The Tribunal was provided with an up-to-date statement of the rent currently due. The rent outstanding amounted to £4,585.76. No payments to account had been made by the Respondent since the Notices were served on her.

Findings in Fact

1. The Applicant and the Respondent entered into a Tenancy Agreement commencing 1 November 2016. The period of the Lease was until 31 May 2017. The Lease provided for monthly renewal thereafter. The rent was fixed at £600 per calendar month.
2. An AT5 had been served on the Respondent on 17 October 2016 in advance of the creation of the tenancy.
3. The tenancy was a Short Assured Tenancy.
4. The Applicant served a Notice to Quit on the Respondent on 3 October 2017. This indicated that the Respondent required to remove from the property by 10 December 2017.
5. A Notice in terms of Section 33(1)(d) of the Housing Scotland Act 1988 was served on the Respondent on 3 October 2017. This Notice intimated to the Respondent that the landlord required vacant possession of the property as at 10 December 2017, that the tenancy would reach its termination date as at that date and gave notice that she was required to remove from the property on or before 15 December 2017.
6. The Applicant served a Section 11 Notice on the local authority by e-mail of 14 December 2017.
7. As at the date of Application, the arrears of rent due were £3,985.76. As at the date of the case management discussion, the arrears of rent due were £4,585.76.

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8. The Applicant is entitled to the order sought for repossession and also for payment of the rent outstanding and due.

Reasons for Decision

1. The Tribunal proceeded on the basis of the written documents which were before it as detailed above and further representations made by the Applicant's solicitor. He invited the tribunal to grant the orders sought. He stated that the Notices had not been challenged nor had the amount of rent outstanding. It was a Short Assured Tenancy which had been validly terminated and accordingly the Tribunal had no discretion other than to grant the Eviction Order sought. The amount of rent had not been disputed and accordingly the Order for Payment should be granted.
2. There was nothing before the Tribunal challenging or disputing any of the evidence before it. The Tribunal accordingly considered that there was sufficient information upon which to make a decision at this stage and that it was fair to do so.

Decision

1. The Order for eviction/possession is granted.
2. The Order for payment in respect of the rent arrears 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.

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Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

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Legal Member

Date

20/2/18