



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/23/2864

Re: Property at 68 Blacklaw Road, Dunfermline, KY11 4AP (“the Property”)

Parties:

Mr John Owen, Mrs Susan Owen, 14 Craigmount Bank West, Edinburgh, EH4 8HG; 30 Stevenson Road, Edinburgh, EH11 2SD (“the Applicants”)

Ms Kellie Murray, 68 Blacklaw Road, Dunfermline, KY11 4AP (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

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

Introduction

1. This application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order.
2. Intimation of the application and of the Case Management Discussion (‘CMD’) was effected upon the respondent by Sheriff officers on 19 October 2023.
3. The applicants were represented by Mrs Alexandra Graham of Messrs Turcan Connell Solicitors. The respondent failed to participate in the hearing.

Findings and Reasons

4. The property is 68 Blacklaw Road, Dunfermline KY11 4AP. The applicants are Mr John Owen and Mrs Susan Owen. They are the heritable proprietors and registered landlords of the property. The respondent is Ms Kellie Murray who is the tenant.

5. The parties entered into a short assured tenancy which commenced on 18 December 2010. An AT5 notice under section 32 of the 1988 Act was served on the respondent prior to the creation of the tenancy.
6. On 16 June 2023 sheriff officers served upon the respondent a notice to quit. In the terms of the said notice to quit, the applicants gave notice to the respondent that she would require to remove from the property on or before 17 August 2023. Further, on 16 June 2023 the applicants served upon the respondent notice under section 33(1)(d) of the Housing (Scotland) 1988 stating that possession was required of the property as at 17 August 2023.
7. The short assured tenancy between the parties has reached its end. Tacit relocation is not operating. No further contractual tenancy is in existence. The applicants have complied with the terms of section 33(1)(d) of the Housing (Scotland) Act 1988.
8. The tribunal also requires to consider the reasonableness of the eviction order being granted.
9. The applicants seek to evict the respondent on the grounds that they intend to sell the let property. They are separated and the let property forms part of the matrimonial property. In terms of their written separation agreement they have agreed to sell the let property to enable final resolution of the settlement of their financial affairs on divorce.
10. The respondent is not opposed to the eviction application. She has confirmed this to the second named applicant and has not taken steps to defend the application. She has an intention to seek social housing. She lives with her two children. There are no known disabilities or other vulnerabilities.
11. A section 11 notice under the Homelessness etc (Scotland) Act 2003 has been issued to Fife Council. In the event of an eviction order being made the local authority is under a statutory duty to make suitable alternative accommodation available.
12. The tribunal concluded that it was reasonable to grant the eviction order.

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.



22 November 2023

Legal Member/Chair

Date