



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/23/2810

Re: Property at Hillockhead Farmhouse, Glenkindle, Alford, AB33 8SE (“the Property”)

Parties:

J & J Strachan, New Mains, Glenkindle, Alford, AB33 8RP (“the Applicant”)

Mr Alan Muirhead, Hillockhead Farmhouse, Glenkindle, Alford, AB33 8SE (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. By decision dated 6 October 2023, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Tribunal intimated the application to the parties by letter of 27 October 2023 and advised them of the date, time and conference call details of today’s CMD. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the

procedure to have been fair. The Respondent was invited to make written representations by 17 November 2023. No written representations were received by the Tribunal.

The case management discussion

4. The CMD took place by conference call. The Applicant was represented by Nancy Strachan and James Strachan and the Respondent participated personally. Mrs Strachan advised that the rent arrears have increased to over £5,000. The housing element of the Respondent's universal credit claim is paid directly to the Applicant, but that leaves a shortfall of £300 per month. The Respondent accepted that rent arrears have accrued and did not oppose the application for an eviction order. He has been in contact with the local authority but no alternative accommodation has yet been identified for the Respondent. The Respondent lives alone at the property and does not have any dependents.

Findings in Fact

5. The parties entered into an assured tenancy, which commenced 1 October 2016.
6. Rent was payable by the Respondent at the rate of £795 per month.
7. The Applicant served a Notice to Quit and the Notice in terms of Section 19 of the Housing (Scotland) Act 1988 on the Respondent by recorded delivery on 19 May 2023.
8. Rent was lawfully due by the Respondent and unpaid at the time the notice of proceedings was served and at the time these proceedings began.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondent did not oppose the application for an eviction order. He accepted that he owes substantial rent arrears. The tenancy is no longer sustainable by the Respondent. He is unable to meet the ongoing rental charge and cannot repay the arrears of rent. The Tribunal was satisfied that the ground for eviction was established. In circumstances where the tenancy is not sustainable by the Respondent, the Tribunal was satisfied that it was reasonable to grant the order evicting the Respondent 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.



07 December 2023

Legal Member/Chair

Date