



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/23/2206

Re: Property at 55 Ford Crescent, Thornton, KY1 4EB (“the Property”)

Parties:

Margaret Davidson, 3 Auchavan Gardens, Glenrothes, KY7 4TU (“the Applicant”)

Brian McGlashan, 55 Ford Crescent, Thornton, KY1 4EB (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Helen Barclay (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under Section 33 of the Housing (Scotland) Act 1988. The Application is accompanied by a copy of the tenancy agreement, the relevant notice under Section 33 of the Act, the notice to quit, proof of service of the notices and the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003.

[3] The Application had called previously for a Case Management Discussion (CMD) on 7 November 2023. The Respondent had appeared and accepted that he had fallen into rent arrears and had chronically mismanaged his payment of the rent. That was despite receiving direct payments from housing benefit which were supposed to be used by the Respondent for paying the rent. The Application was continued to a further CMD to

allow the Respondent an opportunity to make good on his stated intentions to sort out his finances and start making regular payments.

The Case Management Discussion

[4] The Application called again for a CMD by conference call at 10 am on 9 February 2024. The Applicant was again represented by Ms Wooley of BKF Solicitors. The Respondent was again present. Neither party had any preliminary matters to raise. Ms Wooley explained that the Respondent had not made any further payments to his rent at all since the last CMD and the rent arrears were now in the sum of £4,901.00. The Tribunal discussed all aspects of the Application with the parties. The Respondent gave an account of how on 31 December 2023 he had made a payment of £550.00 to his old window cleaner by mistake, having intended to make that payment to the landlord.

[5] The Respondent appeared to attach no importance to the making of regular rental payments and, even if what he said were true, had not paid anything for November 2023 nor January 2024 nor February 2024. The Respondent explained that he prioritised other debts and expenses over the regular payment of rent. The Respondent appeared entirely blasé about the rent and the Tribunal had no confidence whatsoever that the Respondent would actually ever make any further payments. He appeared untroubled by the fact that he received housing benefit payments and simply used this money for other purposes.

[6] Having heard from parties, the Tribunal made the following findings in fact.

Findings in fact

- I. *The Applicant let the Property to the Respondent by virtue of a short-assured tenancy within the meaning of the Act;*
- II. *The Applicant competently ended the tenancy by serving a notice under Section 33 of the Act with a notice to quit;*
- III. *The Respondent has remained in occupation of the Property;*
- IV. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003;*
- V. *The Respondent lives alone in the Property;*
- VI. *The Respondent regularly pays no rent at all and uses the housing benefit he receives to spend on other things;*
- VII. *The Respondent's rent arrears are in the sum of £4,901.00 and are continuing to increase;*

VIII. *The Respondent's attitude to paying rent makes it unreasonable and unviable for the tenancy to continue any further;*

Reasons for Decision

[7] Having made the above findings in fact, the Tribunal determined that the tenancy had been validly ended by the Applicant. The Tribunal also determined that it was reasonable to make an Eviction Order. The Tribunal therefore granted the Application.

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.

Legal Member/Chair

9 February 2024

Date