



**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/24/0193

Re: Property at 17 Chapel Street, Dunfermline, KY12 7AW (“the Property”)

Parties:

The Alfred Stewart Foundation Ltd, 11a Dublin Street, Edinburgh, EH1 3PG (“the Applicant”)

Mr Kieran David Wallis, 17 Chapel Street, Dunfermline, KY12 7AW (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be refused.

1. On 15th January 2024 the Applicant lodged an Application with the Tribunal under Rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property.

2. Lodged with the application were: -
 - a. Short Assured Tenancy Agreement dated 13th May 2016 and initially running from 13th May 2016 to 13th November 2016 and monthly thereafter, and with monthly rent of £495;
 - b. AT5 Notice dated 13th May 2016;
 - c. Notice to Quit dated 9th November 2023 for 13th January 2024;
 - d. Section 33 Notice dated 9th November 2023 for 13th January 2024;

- e. Sheriff Officer's Certificate of Service of 3 and 4;
 - f. Section 11 Notice and proof of service.
3. The Application was served on the Respondent by Sheriff Officers on 10th June 2024.
 4. The Tribunal received an email on 21st June 2024 from the Applicant's agents confirming that the Applicant had sold the property and they would no longer be representing the Applicant.
 5. On 28th June 2024 the Respondent sent a Written Submission to the Tribunal outlining his circumstances.
 6. On 4th July 2024 the new owner sent an email to the Tribunal indicating that they wished to proceed with the Application.

Case Management Discussion

7. The Case Management Discussion ("CMD") took place by teleconference. The Applicant did not appear and was not represented. Mr Adebayo, who purported to be the new owner attended. The Respondent appeared and was represented by Ms Kennedy.
8. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules.
9. Mr Adebayo explained that he was the new owner of the property. He said that he had met with the Respondent, and while he would still like him to leave the property he had agreed to give him up to a year to find somewhere new to live. He was not looking for the Tribunal to grant an eviction order. The Respondent agreed that this was the position.
10. Given that Mr Adebayo had not yet been substituted as the Applicant the Tribunal decided that it could refuse the application on the basis that the Applicant was not present to move it.

Findings in Fact

1. The parties entered into a Short Assured Tenancy Agreement in respect of the property;
2. The tenancy commenced on 30th April 2015, with the initial term being from 30th April 2015 to 30th October 2015, and monthly thereafter;
3. Notice To quit and Section 33 Notice were served timeously and correctly;
4. The Application was served on the Respondent by Sheriff Officer on 23rd January 2023;

5. The Applicant sold the property to Mr Adebayo.

Reasons For Decision

6. Mr Adebayo had not yet, in terms of Rule 32 of the Tribunal's Rules been substituted as the Applicant, meaning that The Alfred Stewart Foundation Limited was still the Applicant. The Tribunal decided that it could refuse the application on the basis that the Applicant was not present to move it

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.

Alison J Kelly

Legal Member/Chair

Date