



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/24/1132

Re: Property at Ground Floor Right, 14 Walker Road, Aberdeen, AB11 8BU (“the Property”)

Parties:

Marnox Properties Ltd, 144 Crown Street, Aberdeen, AB11 6HS (“the Applicant”)

Mr Pawel Ciesielski, Ground Floor Right, 14 Walker Road, Aberdeen, AB11 8BU (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

- Background
 1. An application was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondent upon termination of a short assured tenancy agreement.
- The Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 2 August 2024. The Applicant was represented by Mr Logan and Ms Petre of Marnox Properties. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Sheriff Officer on 28 June 2024. The Tribunal was accordingly satisfied that the Respondent had been duly notified

of the date and time of the CMD and that the CMD could proceed in the Respondent's absence.

3. Two separate applications by the Applicant seeking (i) a payment order against the Respondent under Rule 70 of the Rules in respect of rent arrears and under case reference FTS/HPC/CV/24/1133 and (ii) a repossession order against the Respondent under Rule 65 of the Rules and under case reference FTS/HPC/EV/24/1130 were heard at the same time.

4. The Applicant moved for the order for repossession to be granted as sought. The parties had entered into a Short Assured Tenancy Agreement. The Applicant had served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") on the Respondent. The Respondent had failed to remove from the Property and continued to reside therein. The Applicant required repossession of the Property. There were rent arrears accrued amounting to £3,385. The Respondent had been in arrears of rent since December 2020. He was believed to be employed on and off in the fishing industry. He was believed to be a single man with no dependants, and residing alone.

- Findings in Fact

5. The Tribunal made the following findings in fact:

(i) The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 1 April 2016. The Agreement stated that the start date was 1 April 2016 and the end date was 3 October 2016. Thereafter, if the Agreement is not brought to an end by either party it will run on a monthly basis until ended by either party;

(ii) A Notice to Quit and notice under section 33 of the 1988 Act were served on the Respondent on 22 December 2023 by Sheriff Officer;

(iii) The Notice to Quit and notice under section 33 of the 1988 Act required the Respondent to remove from the Property by 3 March 2024;

(iv) The Respondent had failed to remove from the Property and continued to reside therein.

- Reasons for Decision

6. The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met: namely that the tenancy had reached its end; tacit relocation was not operating; and a notice had been served in terms of that section giving at least 2 months' notice. The Tribunal was also satisfied that it was reasonable to grant the order. The Respondent had accrued significant rent arrears amounting to £3,385. The Respondent had been in arrears of rent since December 2020. He had made promises of payment of double rent to clear the arrears, which had not been adhered to. He was believed to be a single man with no dependants, and residing alone.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

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.

Fiona Watson

Legal Member/Chair:

Date: 2 August 2024