



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/24/1037

Re: Property at 6 Gillespie Crescent, Edinburgh, EH10 4HT (“the Property”)

Parties:

Mr Andrew Guy Speakman, 36 Greenland Garden, Great Baddow, Chelmsford, Essex, CM2 8ZF (“the Applicant”)

Ms Jacqui Walmsley, 6 Gillespie Crescent, Edinburgh, EH10 4HT (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Tony Cain (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 seeks an eviction order under the Housing (Scotland) Act 1988.
2. Intimation of the application and of the Case Management Discussion (‘CMD’) was effected upon the respondent by Sheriff officers on 1 August 2024.
3. The CMD took place by teleconference on 5 September 2024 at 10.00 am. The applicant was represented by Mr Martin Urquhart of DJ Alexander. The respondent failed to participate in the hearing.

Findings and Reasons

4. The property is 6 Gillespie Crescent, Edinburgh EH10 4HT. The applicant is Mr Andrew Guy Speakman. He is the heritable proprietor and registered landlord of the property. The respondent is Ms Jacqui Walmsley who is the tenant.
5. The parties entered into a short assured tenancy which commenced on 1 January 2017 and was for the period until 31 March 2019 with provision being made for the tenancy to continue on a month to month basis thereafter.
6. On 29 December 2022 the applicant served upon the respondent a Notice to Quit. In the terms of the said Notice to Quit, the applicant gave notice to the respondent that he would require to remove from the property on or before 31 January 2023.
7. On 6 October 2023 the applicant served a Section 19 Notice of the Housing (Scotland) Act 1988. This set out that the applicant's reason for seeking possession, with reference to ground 6, of Part 5 of the 1988 Act was that he intended to carry out extensive refurbishment of the property, including installing a new bathroom, shower room and kitchen. The property is also proposed to be rewired and a new heating system installed. The property will have its front and back doors replaced with new floor coverings throughout. The property will be fully redecorated. The required work could not be reasonably required without the tenant being in possession and the work will take place 10-12 weeks to be completed. The current condition of the property is poor. The electrical condition requires substantial improvement.
8. The short assured tenancy between the parties has reached its end. Tacit relocation is not operating. No further contractual tenancy is in existence. The applicant has complied with the terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.
9. The tribunal also requires to consider the reasonableness of the eviction order being granted.
10. The applicant seeks to evict the respondent on the grounds that he intends to renovate the let property. The tribunal was satisfied that this proposal is genuine. It is certified from the applicant's building contractor that the work cannot be undertaken with the tenant in the property.
11. The respondent has not opposed the eviction application. The respondent is single and is in employment. She has no dependents. She has no known disabilities or other vulnerabilities. Her mother has had communications with the applicant's representative. She is a citizen of the USA, willing to leave the property and is taking active steps to do so. Due to ongoing discussions about the respondent's willingness to remove from the property no immediate steps were taken after expiry of the notice to quit. Numerous undertakings to remove earlier have not been fulfilled.

12. A section 11 Notice under the Homelessness etc (Scotland) Act 2003 has been issued the Council. In the event of an eviction order being made the local authority is under a statutory duty to make suitable alternative accommodation available.

13. 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.

Richard Mill

5 September 2024

Legal Member/Chair

Date