



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 18 and 33 of the Housing (Scotland) Act 1988

**Chamber Ref: FTS/HPC/EV/24/1872
 FTS/HPC/EV/24/1873**

Re: Property at Burnside Bungalow, Balgray, Balbeggie, Perth, PH2 6AS (“the Property”)

Parties:

Mr Colin Douglas, 5 Brimmond Drive, Westhill, Aberdeenshire, AB32 6SZ (“the Applicant”)

Ms Gillian Hogg, Mr Robert Gourlay, Burnside Bungalow, Balgray, Balbeggie, Perth, PH2 6AS; Burnside Bungalow, Balgray, Balbeggie, Perth, PH2 6AS (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondents)

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 two applications to evict the Respondents from the Property: one under rule 65 and the other under Rule 66 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”). This decision relates to both applications.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the applications under Rule 9 of the Rules to a case management discussion (“CMD”).

3. Letters were issued on 7 August 2024 informing both parties that a CMD had been assigned for 10 September 2024 at 10am, which was to take place by conference call. In that letter, the parties were also told that they were 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 Respondents were invited to make written representations by 28 August 2024. No written representations were received by the Tribunal.

The case management discussion – 10 September 2024

4. The CMD took place by conference call. The Applicant joined the conference call and was represented by Miss Heather Maltman, solicitor. The Respondents did not join the conference call, and the discussion proceeded in their absence. These applications called alongside a related case which proceeds under chamber reference FTS/HPC/CV/24/1874. The Tribunal explained the purpose of the CMD. The Applicant's representative explained that the First Respondent is believed to have vacated the Property a number of months ago. The Second Respondent lives alone at the Property and is believed to be in employment. The rent arrears have increased since the applications were submitted and the sum now due is £9,600. The last payment of rent was on 29 December 2023. The Applicant understands that the Second Respondent has been in contact with the local authority but no further information has been provided by the Second Respondent.
5. The Tribunal adjourned briefly to consider the information provided by the Applicant and his representative. The Tribunal explained that it found that the tenancy had been brought to an end by the operation of section 33 and that grounds 11 and 12 had been established. It also found that it was reasonable to grant the order.

Findings in Fact

6. The parties entered into a short assured tenancy which commenced 16 November 2015.
7. On 29 August 2023, the Applicant served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondents by recorded delivery post.
8. On 19 February 2024, the Applicant served a form AT6 on the Respondents by recorded delivery post.
9. The short assured tenancy had reached its end.
10. Tacit relocation was not operating.
11. No further contractual tenancy is in operation.

12. The Respondents persistently delayed in paying rent.
13. Some rent which was lawfully due by the Respondents was unpaid at the time the form AT6 was served and at the time the application was made.

Reason for Decision

14. The Tribunal proceeded on the basis of the documents and the submissions made at the CMD. The Respondents did not join the conference call and did not lodge any written submissions. The Tribunal was satisfied that the conditions of section 33 had been met. The rent statement produced demonstrated that rent has not been paid since December 2023 and the arrears are now substantial. There was no information to suggest that the Respondents disputed the accuracy of the rent statement. The Respondents primary obligation is to pay rent and they have failed to meet that obligation for many months. The Tribunal was satisfied that grounds 11 and 12 were established. Given that the Respondents have failed to engage with the Applicant in relation to payment of rent, the Tribunal was satisfied that it was reasonable to grant the order evicting the Respondents 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.

N Irvine

Legal Member/Chair

10 September 2024

Date