



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 (Act)

Chamber Ref: FTS/HPC/EV/24/1809

Parties

**Mr George Brown, Mr David Yule (Applicant)
Mr Marius Ksiazkiewicz (Respondent)**

Pure Property Management Edinburgh LTD (Applicant's Representative)

Flat 1 18 Drum Terrace, Edinburgh, EH7 5NB (House)

Tribunal Members:

Alan Strain (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 18 April 2024;
2. AT5 and SAT commencing 4 May 2014;
3. Notice to Quit dated 14 December 2023;
4. Section 33 Notice dated 14 December 2023;
5. Sheriff Officer certificate of service of Notice to Quit and Section 33 Notice on 19 December 2023;
6. Section 11 Notice and email serving on local authority;
7. Sheriff Officer certificate of service of CMD Notification on 30 August 2024;
8. Applicants' updated Schedule of Rent Arrears as at 4 October 2024.

Case Management Discussion (CMD)

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The case called for a CMD by conference call on 8 October 2024. The Applicants did not participate but were represented by their Letting Agent. The Respondent did not participate and was not represented. He had dialled in at 9.30am and had been advised to call back at 10am. He did not do so.

The Tribunal delayed the start of the CMD to 10.20 am to see if the Respondent would participate but he did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that he should attend and the Tribunal could determine the matter in absence if he did not.

The Applicants did own a couple of rental Properties. There were significant rental arrears of £9,270 as at 4 October 2024 on this Property. As far as the Letting Agent was aware the Respondent lived in the Property on his own and had not engaged with them despite attempts to do so regarding the arrears.

Decision and Reasons

The Tribunal considered the oral and documentary evidence. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a SAT commencing 4 May 2014;
2. An AT5 had been served prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served on 19 December 2023;
4. Section 11 Notice had been served on the local authority;
5. The SAT had reached its term and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicants had given the Respondent notice that they required possession;
9. The Respondent was in considerable rent arrears in the sum of £9,270;
10. The Respondent lived in the Property on his own and was not engaging with the Letting Agents over the arrears.

The Tribunal considered all of the evidence and submissions.

The Tribunal were satisfied that Rule 66 had been complied with.

The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Respondent was not engaging with the Applicants' Letting Agents and had accumulated significant arrears. The Tribunal considered that it was reasonable to grant the order sought in the circumstances and granted the application for eviction

and recovery of possession. The Tribunal did not require to hear any further evidence.

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.

Alan Strain

8 October 2024

Legal Member/Chair

Date