



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 (“the 1988 Act”)

Chamber Ref: FTS/HPC/EV/24/1549

Re: Property at 22a Knockhill Road, Renfrew, PA4 8EF (“the Property”)

Parties:

Mr Giulio Girasoli, 46 Glebe Street, Renfrew, PA4 8UA (“the Applicant”)

Miss Lyndsey Paterson, 22a Knockhill Road, Renfrew, PA4 8EF (“the Respondent”)

Tribunal Members:

Susan Christie (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order for possession should be granted against the Respondent in favour of the Applicant.

Background

1. The application made by the Applicant is for an order for possession of the Property in terms of Section 33 of the 1988 Act.
2. The Applicant produced along with the application a copy of the signed original short- assured tenancy agreement (“SAT”), AT5 with acknowledgment of receipt, Notice to Quit, Section 33 Notice and Section 11 Notice in terms of the Homelessness Etc. (Scotland) Act 2003 served on the relevant local authority and associated executions of service.
3. The paperwork was served by the Tribunal on the Respondent on 23 August 2024 personally by Sheriff Officer, along with intimation of the details of a Case Management Discussion.
4. No written representations were submitted by the Respondent.

The Case Management Discussion

5. The Case Management Discussion (CMD) took place on 2 October 2024 by Conference call. Mr Nixon from Ritehome Ltd participated on behalf of the Applicant. There was no appearance by or for the Respondent. The tribunal was satisfied that proper intimation had been made on the Respondent which could have allowed her to participate if she so wished. Accordingly, the tribunal proceeded in her absence.
6. The reason for the CMD was explained and the paperwork produced was examined and discussed.
7. A Rent Schedule has been sent into the tribunal six days before the CMD. The Applicant's Representative explained this was slightly late due to a diary error. The tribunal noted this has been crossed over to the Respondent by administration. The tribunal accepted this document into the case.
8. The Applicant's Representative explained to the Tribunal: that the Applicant is retiring and is looking to sell off the four properties he owns including this one. It is the first he has sought to recover. Whilst the Respondent had contracted to pay a rent of £450 per calendar month from the outset of the tenancy in June 2017, she had never in fact made a full payment of rent. She receives housing benefit (or an equivalent) and the landlord knew of this, but she had never made up the shortfall between her benefit and the full rental payment due. The current rent schedule shows a deficit on the rent account of £746.81. However, this does not show the full picture. The Applicant is said to have written off around £9599 during the let as she had never met the shortfall. A decision had been made in August 2022 to do this after attempts to engage with the Respondent to have her pay the shortfall failed. She had been phoned, e mailed, and conversations had taken place when the Respondent promised to make shortfall payments, but it never materialised. The Property is a two bedroom flat, and the Applicant is only aware of the Respondent living there. Her circumstances are unknown, but she is believed to have children. The Applicant's Representative had made effort to engage with her around this application, but she had not engaged and she was therefore not given any information or advice regarding alternative options for housing.
9. The tribunal was satisfied that the matter could be determined at the CMD based on the information it had before it. The tribunal adjourned for a period to deliberate and then reconvened the CMD.

Findings in Fact

10. The Applicant is the owner and Landlord of the Property.
11. The Parties entered into a Short Assured Tenancy over the Property with a date of entry of 26 June 2017.
12. The Applicant served a Notice to Quit and Section 33 (of the Act) Notice on the Respondent on 24 January 2024.
13. A section 11 Notice in terms of the Homelessness Etc. (Scotland) Act 2003 was served on the relevant local authority.
14. The Applicant wishes to sell the Property to retire.
15. The applicant wishes to sell four properties in all.
16. The contractual rent agreed is £450 per calendar month in advance.
17. The Respondent has been in receipt of Housing Benefit (or an equivalent) throughout the tenancy.

18. The benefits received do not cover payment of the full contractual rent due and a shortfall occurs every month.
19. The Respondent has not paid the shortfall of rent to the Applicant.
20. The Applicant wrote off a large amount of rent arrears in August 2022. Notwithstanding, rent arrears have again accrued to the sum of £746.81 as at September 2024.
21. The Respondent is believed to live alone in the Property.
22. The Applicant's Representative has taken steps to seek engagement with the Respondent over the rent arrears, but this did not resolve the issue.
23. The Applicant's Representative has taken steps to seek engagement with the Respondent over the application for eviction but has received no response.
24. The tribunal is satisfied that it is reasonable to grant an eviction order.

Reasons for Decision

25. The Tribunal was satisfied at the CMD that proper intimation on the Respondent had been made and proceeded in her absence. No written response had been submitted to the application.
26. The Tribunal was satisfied that a valid Notice to Quit had been served along with a Section 33 Notice under the Act and that the SAT had reached its finish, tacit relocation was not operating.
27. Intimation of the application had been made on the relevant local authority by way of a Section 11 Notice, as required.
28. The Tribunal then considered whether it was reasonable to grant an eviction order. The Tribunal accepted the Applicant's given reasons given for the making of the Application that it was a financial one to retire and realise properties and also due to the loss of income through unpaid rent over the whole tenancy duration. The Respondent appears to have had the benefit of a large sum of rent arrears being written off. The tribunal noted that intimation of the intention to seek recovery of the Property from the Respondent had been made on the local authority, and that the Respondent has a potential route to obtaining homelessness advice or information on housing options.
29. The Tribunal determined that having regard to the information before it that informed the findings in fact, that to grant the order was reasonable.
30. The Tribunal therefore determined to make an eviction order. The decision of the tribunal is unanimous.

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.

Legal Member/Chair

2 October 2024

Date