



**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/24/0850

Re: Property at 25 Waugh Path, Bonnyrigg, EH19 3QE (“the Property”)

Parties:

Mr David Burnside, 6 James Leary Way, BONNYRIGG, EH19 3QD (“the Applicant”)

Ms Robyn Holburn, Mr Darren Docherty, 25 Waugh Path, Bonnyrigg, EH19 3QE (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member) and Janine Green (Ordinary Member)

Decision

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

Background

The applicant applied to the Tribunal by application dated 21st February 2024.

Accompanying the application were the following documents

Tenancy agreement

AT5 x 2

Notice to Quit

Section 33 notice x 2

Execution of service by Sheriff Officer

Section 11 Notice

The application was accepted for determination on 17th April 2024 and thereafter served on the respondent.

The day before the CMD the applicant through his agent submitted an affidavit in which he confirmed that he had originally wanted to sell the property but his adult student son could not find accommodation so the applicant now wanted to let his son live there.

The affidavit had not been sent to the respondent.

Case Management Discussion

At the CMD Ms Barr attended for the applicant. Both respondents attended.

The respondent were unaware of the affidavit but were content to proceed without having seen it.

The respondent indicated that they were not opposed to the order of eviction being granted. They had applied for local authority housing and required an order of eviction to obtain this housing.

The applicant wanted to recover the property to allow his adult son to occupy it. The Respondent acknowledged this.

Findings in Fact

The parties entered into a short assured tenancy for the lease of the property at 25 Waugh Park, Bonnyrigg EH19 3QR.

The applicant served notice on the applicant to leave the property

The tenancy has come to an end.

Reasons for Decision

The respondent did not oppose the application. They were prepared to leave the property but needed an order from the tribunal in order to take to the local authority to obtain housing.

The applicant had served all the necessary paperwork to bring the tenancy to an end.

Decision

To grant an order of eviction

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

Date 27 August 2024