



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/24/2981

Re: Property at Brookefield, Croftmaggot Road, Dumfries, DG2 0SB (“the Property”)

Parties:

Mr John Jencks, Portrack Estate, Portrack House, Portrack Estate, Holywood, Dumfries, DG2 0SB (“the Applicant”)

Mrs Wilma Isabel Stoker, Brookefield, Croftmaggot Road, Dumfries, DG2 0SB (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Frances Wood (Ordinary Member)

Decision

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

Introduction

1. This application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order.
2. The applicant was represented by Mr Adam Turnbull of Gillespie Gifford & Brown LLP. Mr Matthew Law of Savills who manage the estate was also present. The respondent joined the hearing personally and represented her own interests.

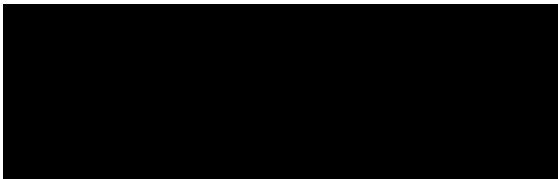
Findings and Reasons

3. The property is Brookefield, Croftmaggot Road Dumfries DG2 0SB. The applicant is Mr John Jencks of Portrack Estate who is the heritable proprietor and registered landlord of the property. The respondent is Mrs Wilma Stoker who is the tenant.
4. The parties entered into a short assured tenancy which commenced on 23 August 2013. An AT5 Notice under section 32 of the 1988 Act was served on the respondent prior to the creation of the tenancy. Monthly rent was agreed at £525 per month. The initial period of let was until 22 September 2014 and has continued on a monthly basis since.
5. On 19 February 2024 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 she would require to remove from the property on or before 22 April 2024. Further, on 19 February 2024 the applicant served upon the respondent Notice under Section 33(1)(d) of the Housing (Scotland) Act 1988 stating that possession was required of the property as at 22 April 2024. Royal Mail proof of delivery evidences the respondent's receipt of the items on 20 February 2024.
6. 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. The legal basis for the eviction is established.
7. The tribunal requires to consider the reasonableness of the eviction order being granted.
8. The applicant seeks to evict the respondent on the grounds that he intends to sell the let property. It was purchased with the intention of being used as a retirement property for a long term employee but it has never been used for this purpose. It was not the intention to let the property out commercially. The plan is to realise the asset and apply the funds to other estate needs.
9. The respondent is not opposed to the eviction application. She is in employment and lives with her 8 year old daughter. She has lived in the property for 11 years. She has made enquiries regarding other properties and believes that she will be able to access alternative accommodation by the end of February 2025. She has been in contact with the local housing authority and is aware of the range of housing options available. Her circumstances suggest her best prospect is to find other accommodation in the private rented sector and she is pursuing this.
10. A section 11 Notice under the Homelessness etc (Scotland) Act 2003 has been issued. In the event of an eviction order being made the local authority is under a statutory duty to make suitable alternative accommodation available.

11. The tribunal concluded that it was reasonable to grant the eviction order. The tribunal extend the period for implementation until 28 February 2025 which affords the respondent three month to find alternative accommodation.

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.



29 November 2024

Date