



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/24/3187

Property: 2 Mains of Aberdalgie, By Perth PH2 OQB ("Property")

Parties:

Aberdalgie & Forteviot Farms, Dupplin Estate Office, Dupplin Estate PH2 OPY ("Applicant")

Michael Nield and Robyn Stewart, 2 Mains of Aberdalgie, By Perth PH2 OQB ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that an order for possession of the Property should be made, but to delay enforcement until 1 May 2025.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement dated 23 September 2015; AT5 dated 26 September 2015; Notice to Quit dated 11 March 2024 and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") dated 12 March 2024, both addressed to the Respondent; sheriff officer certificate of service evidencing service of the Notice to Quit and Section 33 Notice on the Respondent on 18 March 2024; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 5 June 2024 and sheriff officer execution of service confirming service of the application on the First Respondent on 23 January 2025 and on the Second Respondent on 17 February 2025. On 11 February 2025 the Respondent lodged a written representation. On 23 February 2025 the Applicant lodged a written representation. On 3 March 2025 the Respondent lodged a written representation.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal by conference call on 4 March 2025. Donryn Dewar of the Applicant was in attendance as were both Respondents.

The Tribunal asked the Respondents if they opposed the application for a possession order. Mr Nield said that they did not. He said that they had been trying to move and were keen to obtain alternative accommodation. Mr Nield said that the Respondent had viewed one council house which had extensive black mould. He said that was unsuitable due to his health issues. He said they had been asked about a second property (which they were not invited to view) offered by Caledonian Housing but it was in a bad area of Perth and was next to a property that had been burnt down. He did not think that property would be suitable for his family and his mental health. He said that the local authority had then written to the Respondent saying no further support would be provided until August 2025 as they had refused two properties. Ms Stewart said she had spoken to Shelter who had told her that once an eviction order was granted they could assist with a submission to the local authority to overturn the suspension of assistance until August 2025.

Mr Nield told the Tribunal that the Respondents have two children aged 9 and 6 who both attend the local school. Ms Stewart said that her 9 year old son has autism and is waiting for an ADHD diagnosis. Mr Nield said that the Respondent is looking in the private rented sector and they now have financial backing from family.

The Tribunal asked if a delay in enforcement of any order would assist the Respondent. Mr Nield said that any additional time given would be welcomed. The Tribunal asked if ground floor accommodation was required. Mr Nield said that he could manage stairs as long as there was a banister.

The Tribunal noted the written submission lodged by Ms Dewar and asked her why possession of the Property was being sought. Ms Dewar said that the Property was close to where her father in law lives and the Property was required as accommodation for an individual who was to provide support for her father in law. She said that in addition the Respondents had indicated they wished to leave the Property. Further, she said she found it difficult to comply with her duties as a landlord of the Property for the reasons set out in her written submission. She said that she is the clerk of works for the properties managed by the Applicant and she was uncomfortable attending the Property due to the verbal threats made by Mr Nield. The Tribunal noted that in the written submission Ms Dewar had said she would be amenable to an order being granted with the date for enforcement delayed and asked if that remained her position. She said that it did. She said that there are no rent arrears due for the Property other

than the cost of replacing damaged PIV system. She said the rent was paid every four weeks by DWP.

Mr Nield said that he did not dispute anything said by Ms Dewar. He said he accepted he had acted inappropriately in the past. He said he just needed more time to find alternative accommodation.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short assured tenancy agreement dated 23 September 2015.
2. The tenancy was for the period 30 September 2015 to 5 April 2016 and month to month thereafter.
3. A Notice to Quit dated 11 March 2024 was served on the Respondent on 18 March 2024 stating that the tenancy would terminate on 5 June 2024.
4. A Notice in terms of Section 33 of the 1988 Act dated 12 March 2024 was served on the Respondent on 18 March 2024 stating that possession of the property was required on 5 June 2024.
5. The tenancy reached its *ish* on 5 June 2024 and is not continuing by tacit relocation.
6. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy and that a Section 33 Notice and Notice to Quit had been served on the Respondent giving two months' notice that the Applicant required possession of the Property.

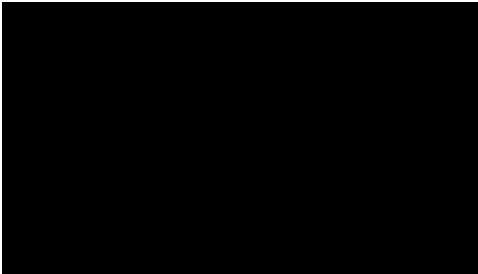
Having considered all of the circumstances as set out in the written submissions lodged by the Parties and in the oral submissions made at the CMD, the Tribunal determined that it was reasonable to grant and order for possession of the Property but to delay enforcement until 1 May 2025.

Decision

The Tribunal grants an Order for possession of the Property but to delay enforcement until 1 May 2025.

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.



Date : 4 March 2025