



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/24/3793

Re: Property at 2A Larch Street, Dundee, DD1 5NN (“the Property”)

Parties:

TA Investments Limited, incorporated in Scotland (SC215088) (and having their registered office at Gateway West, 5 Luna Place, Technology Park, Dundee, DD2 1XF (“the Applicants”)

Mr Simon Gawith, 2A Larch Street, Dundee, DD1 5NN (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

Background

1. By application, dated 19 August 2024, the Applicants sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy.
2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 11 July 2017 and, if not ended by either party on 10 July 2018, continuing on a monthly basis until terminated by either party giving two months’ notice to the other, and copies of a Notice under Section 33 of the 1988 Act, dated 4 June 2024 and a Notice to Quit, dated 5 June 2024, both requiring the Respondent to vacate the Property by 10 August 2024, with proof of delivery of both Notices by sheriff officer on 6 June 2024. The Applicants stated that the rent was six months overdue and that they wish to sell the Property.

3. On 15 February 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 8 March 2025. The Respondent did not make any written representations to the Tribunal.
4. On 24 March 2025, the Applicants and their solicitors provided the Tribunal with a Rent Statement showing arrears at 11 March 2025 of £13,650, with no rent having been paid since February 2024.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the morning of 27 March 2025. The Applicants were represented by Mr Calvin Gordon of Thorntons Law, Edinburgh. The Respondent was not present or represented.
6. The Applicants' representative told the Tribunal that it appeared that the Respondent had stopped paying rent when he received the Notice to Quit. So far as he was aware, there are no children living with the Respondent, nor, to the best of his knowledge does the Respondent have any vulnerabilities. He did not know whether the Respondent is in work or receiving benefits. The Applicants wish to sell the Property to repay finance and that situation is exacerbated by the very high arrears of rent.

Reasons for Decision

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
8. Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.
9. The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given. The remaining matter for the Tribunal to consider was, therefore, whether it would be reasonable to issue an Order for Possession.

10. In arriving at its decision as to whether it would be reasonable to make an Order for Possession, the Tribunal considered carefully all the evidence before it and noted in particular that the Respondent has paid no rent at all for 13 months and has arrears of £13,650. He has offered no explanation for this and he neither made written representations nor attended or arranged to be represented at the Case Management Discussion to tell the Tribunal of any facts and circumstances it should take into account in deciding whether to make an Order for Possession. Accordingly, the Tribunal decided that it would be reasonable to make an Order for Possession.

11. The Tribunal's decision was 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: Mr Clark

Date: 27 March 2025

