

Housing and Property Chamber
First-tier Tribunal for Scotland



Statement of Decision 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/17/0471 & FTS/HPC/CV/17/0475

Re: Property at 22/2, Abbeyhill Crescent, Edinburgh, EH8 8DZ (“the Property”)

Parties:

Miss Jacqueline Allan, 5 Newlands Park, Edinburgh, EH9 2DL (“the Applicant”)

Ms Morgan Winning, 22/2 Abbeyhill Crescent, Edinburgh, EH8 8DZ (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Eileen Shand (Housing Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:-

- **The order for possession of the property be granted; and**
- **The order for payment in respect of rent arrears be granted.**

Background

1. The applications are for an order for possession of the tenancy of the property known as and forming 22/2, Abbeyhill Crescent, Edinburgh, EH8 8DZ and also for an order for payment in respect of rent arrears outstanding in respect of the tenancy.

2. An application was submitted to the tribunal by the Applicant on 11 December 2017 setting out that the Applicant sought possession of the tenancy under Section 33 of the Housing (Scotland) Act 1988 and an application of the same date seeking payment of rent arrears in respect of the tenancy.
3. Documents lodged with the Tribunal were the Tenancy Agreement, the Notice to Quit, the AT5, Section 33 Notice, Section 11 Notice, a statement of rent due and confirmation of service of the Notices.
4. The Tribunal fixed a hearing for 9 March 2018 at 10.00am at George House D25, 126 George Street, Edinburgh, EH2 4HH. The Respondent was advised of this in writing by the Tribunal under cover of letters dated 7 February 2018 and that written representations in response to the applications required to be lodged by 28 February 2018. No responses were received. The Respondent was also told that she required to attend the hearing. The hearing on 9 March 2018 took place in the absence of the Respondent after making attempts to ascertain her whereabouts. No contact had been received from the Respondent by the Tribunal. The Applicant was represented by her agent, Mr Graham Little. The Tribunal was provided with an up-to-date statement of the rent currently due. The rent outstanding amounted to £4,930. No payments to account had been made by the Respondent since the notices were served on her.

Findings in Fact

1. The Applicant and the Respondent entered into a Tenancy Agreement commencing 8 May 2017. The period of the Lease was until 9 November 2017. The Lease provided for monthly renewal thereafter. The rent was fixed at £700 per calendar month.
2. An AT5 had been served on the Respondent on 8 May 2017 in advance of the creation of the tenancy. It had been dated and timed by the tenant on 8 May 2017 at 14:58 hours whereas the tenancy was dated and signed by the tenant on 8 May 2017 at 15:10 hours.

3. The tenancy was a Short Assured Tenancy.
4. The Applicant served a Notice to Quit on the Respondent on 29 September 2017. This indicated that the Respondent required to quit the premises by 9 December 2017.
5. A Notice in terms of Section 33(1)(d) of the Housing Scotland Act 1988 was served on the Respondent on 29 September 2017. This Notice intimated to the Respondent that the landlord required vacant possession of the property as at 9 December 2017, that the tenancy would reach its termination date as at that date and gave notice that she was required to remove from the property on or before 9 December 2017.
6. The Applicant served a Section 11 Notice on the local authority by e-mail of 11 December 2017.
7. As at the date of Application, the arrears of rent due were £2,830. As at the date of the hearing the arrears of rent due were £4,930.
8. The Applicant is entitled to the order sought for repossession and also for payment of the rent outstanding and due.

Reasons for Decision

1. The Tribunal proceeded on the basis of the written documents which were before it as detailed above and further representations made by the Applicant's agent. He invited the tribunal to grant the orders sought. He stated that the Notices had not been challenged nor had the amount of rent outstanding. It was a Short Assured Tenancy which had been validly terminated and accordingly the Tribunal had no discretion other than to grant the Eviction Order sought. The amount of rent had not been disputed and accordingly the Order for Payment should be granted.
2. There was nothing before the Tribunal challenging or disputing any of the evidence before it. The Tribunal was satisfied that the requirements of Rule 24(1) regarding the giving of notice of the hearing had been duly complied

with and accordingly proceeded with the application upon the representations of the Applicant and all the material before it. In the circumstances, the tribunal considered there was sufficient information upon which to make a decision at this stage and that it was fair to do so.

Decision

1. The Order for eviction/possession is granted.
2. The Order for payment in respect of the rent arrears is granted.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

A Strain

Legal Member

9 March 2018
Date