

Housing and Property Chamber
First-tier Tribunal for Scotland



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/22/3202

Re: Property at 2 Goldielea Cottages, Dalbeattie Road, Dumfries, DG2 8ND (“the Property”)

Parties:

Miss Kerrie Sarah Wallis McDonald, 109 The Chase, London, SW4 0NR (“the Applicant”)

Mr Jim Brown, 2 Goldielea Cottages, Dalbeattie Road, Dumfries, DG2 8ND (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted but deferred for a period of 3 months to 7 May 2023.

BACKGROUND

The Applicant applied through her legal agents Messrs. JHS Law on 30th August 2022 for an order of possession of the property. Accompanying the application made was a tenancy agreement, notice to quit, section 33 notice, section 11, letter from solicitor to respondent, royal mail proof of delivery to respondent.

The application was received by the tribunal on 6th September 2022. Certain further information was sought and thereafter provided by the agents.

On 10th November the application was accepted.

A Case Management Hearing was then assigned for the 7th of February.

Intimation of the proceeding was made to the Respondent by Sheriff Officers on the 1st of December 2022.

The Respondent instructed assistance from Dumfries and Galloway Citizens Advice Service who in turn provided an email to the tribunal on 16th December 2022.

THE CASE MANAGEMENT HEARING

At the Case Management Hearing Mr Whitelaw from JHS Law attended on behalf of the applicant. Mr Maxwell attended for the Respondent.

The Respondent accepted that they be given notice that the tenancy was going to end. The difficulty he had was a personal one. He is a 77 year old man with health issues. His son is blind. They require to obtain suitable accommodation. The wish had been to find suitable permanent accommodation from the Local Authority as opposed to being placed in temporary accommodation followed by a permanent move.

The issue for the Respondents was the length of time that any order could be deferred for.

The applicants agent confirmed that there was a purchases of the property. There were two separate tenancies forming one property. The properties could be split but that would be much more time consuming and more expensive. The applicant herself was renting in London and wished to purchase in London and she would do so from the proceeds of sale from the properties in Dumfries.

FINDINGS IN FACT

1. The Parties entered into a lease agreement for the lease of the property at 2 Goldielea Cottages, Dalbeattie Road, Dumfries, commencing 1st June 2013 and terminating on the 31st of May 2014 and continuing monthly thereafter.
- 2.
3. The rent was £450 per calendar month payable monthly and in advance.
- 4.
5. The applicant had served the appropriate notices upon the Respondent to terminate the tenancy.
- 6.

REASONS FOR DECISION

The Respondents accepted that an order would be granted in respect of the tenancy. The issue was one of how long the Respondent could continue to reside in the property to obtain alternate accommodation for himself and his son.

The Tribunal discussed matters. There's clearly a balance to be struck between the issues surrounding the Respondent and those of the applicant. The Tribunal were of a view that a period of three months would provide the Respondent with further time for the Local Authority to attempt to find suitable accommodation for the Respondent and his son.

DECISION

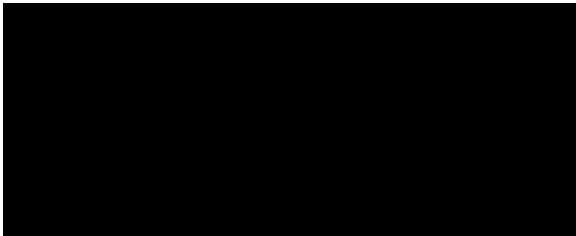
To make an order of eviction deferred until 7th May 2023.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.



Legal Member/Chair

Date: 07/02/2023