

Housing and Property Chamber
First-tier Tribunal for Scotland



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 (“the Act”).

Chamber Ref: FTS/HPC/EV/19/2110

Re: Property at Flat D, 3 Thornbank Street, Dundee, DD4 6HT (“the Property”)

Parties:

Mr David Tassie and Mr William Boath, t/a the firm of Elmbank Holdings, 26 Baldovan Road, Dundee (“the Applicants”)

Mrs Aileen Sinclair, Flat D, 3 Thornbank Street, Dundee, DD4 6HT (“the Respondent”)

Tribunal Member:

David Preston (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction by granted in favour of the Applicants.

Background

1. By application dated 8 July 2019 the Applicants applied to the First-tier Tribunal under Rule 66 of the First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The application was accompanied by:

Tenancy Agreement dated 28 May 2010;
Form AT5 dated 25 May 2010;
Notice of Change of Landlord dated 28 July 2015;
Notice to Quit and section 33 Notice dated 25 March 2019;
Notice under section 33 of the Act;
Sheriff Officers Certificate of Execution of Service dated 26 March 2019; and
Notice to Local Authority under section 11 of the Homeless etc (Scotland) Act 2004.

2. By Decision dated 19 August 2019, a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the Rules to the tribunal. A letter



of Intimation dated 3 September 2019, with Notice of the Case Management Discussion to be held 10 October 2019 at 10.00 in Hilltown Community Centre, 15 Alexander Street, Dundee DD£ 7UN together with the case papers was served on the tenant by Sheriff Officers on 4 September 2019. The tribunal was provided with a copy of the Sheriff Officer's Certificate of Citation of that date.

3. The tribunal was satisfied that all relevant documents and intimation of today's hearing had been duly served on the respondent and that the requirements of Rule 24 had been complied with.

The Case Management Discussion (CMD)

4. Mr Steven Lamont appeared on behalf of the applicants. There was no appearance by or on behalf of the respondent. The tribunal determined that the respondent had voluntarily waived her right to be present at the hearing or be represented and was accordingly content to proceed in his absence.
5. The tribunal noted that the Tenancy Agreement had been entered into between the respondent and Messrs Tassie and Boath, per Lickley proctor Lettings, 58 Bell Street, Dundee DD4 6HT. On 28 July 2015 the respondent was sent a Notice of Change of Landlord advising that the landlord was now Elmbank Holdings.

Reasons for Decision

6. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
7. The necessary documentation under Section 33 of the Housing (Scotland) Act having been duly served upon the respondent, and there having been no response or appearance by or on behalf of the respondent, the tribunal was satisfied that an Order for Eviction should be 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.


Legal Member/Chair

10/10/19.
Date