



Notes on a Case Management Discussion 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/18/3408

Re: Property at 4 F Dens Road, Dundee, DD3 7ST (“the Property”)

Parties:

John Street (Scotland) Ltd, 52a Church Street, Broughty Ferry, Dundee, DD5 1HB (“the Applicant”)

Mr Aaron Ballantyne, Ms Louise Hepburn, 4 F Dens Road, Dundee, DD3 7ST (“the Respondents”)

Tribunal Member:

Maurice O’Carroll (Legal Member)

Summary of Discussion

Background

1. A Case Management Discussion (“CMD”) was heard on 26 April 2019 at Caledonian House, Greenmarket, Dundee. It was an adjourned CMD from 3 April 2019. The earlier CMD had been adjourned in order that the legal representative for the Applicant could attend and for the Respondents to obtain and provide further information to the Tribunal, if so advised.
2. At the CMD, Claire Herd of the Applicant again attended, represented by Miss Rachel Irvine of Messrs BTO solicitors. Ms Louise Hepburn of the Respondents attended in person, although the other Respondent, Mr Ballantyne was unable to do so. Mr Kenny Marshall of the Dundee North Law Centre appeared and confirmed that he acted on behalf of both Respondents.

Issues discussed at the CMD

3. The parties confirmed that the rental agreement in respect of the Property which commenced on 3 July 2017 was a short assured tenancy. As such the terms of section 33 of the 1988 Act applied.

4. Mr Marshall confirmed that he accepted that the Notice to Leave had been validly served on both Respondents, with the requisite notice being provided. He therefore conceded that there were no grounds for opposition to the application for eviction. He did, however, request that the Order for Eviction be delayed for a period of two months in order to allow his clients to find alternative accommodation. That extension was opposed by the Applicant.
5. The Chairman pointed out that in terms of section 46 of the Tribunals (Scotland) Act 2014, the period of appeal was of 30 days duration and that the Order could not take effect before that period had elapsed. That would provide at least some time for the Respondents to seek alternative accommodation. In light of the failure of the parties to agree a longer date for the effective date of the Order for Eviction, the Chairman decided to make the Order as at the date of the hearing as requested by the Applicant, with no extension beyond the statutory appeal period.

Outcome

6. An Order for Eviction will follow which may not be executed prior to noon on 27 May 2019.

NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.

M O'Carroll

Legal Member

26 April 2019

Date