



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/19/0657

Re: Property at Flat 2/2 43 Clement Place, Dundee, DD3 9PG (“the Property”)

Parties:

T/A Quality Properties, 2E Denhead Crescent, Dundee, DD2 4SJ (“the Applicant”)

Ms Gillian Tinney, Flat 2/2 43 Clement Place, Dundee, DD3 9PG (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. The parties entered into a Short Assured Tenancy between 9th May 2008 and 7th November 2008. The rent payments of £498.33 per month were due on the 9th day of each month in advance.

3. The Tribunal had before it the following documents:
 - a) Application dated 28th February 2019 received by the Housing and Property Chamber on 28th February 2019.
 - b) Short Assured Tenancy Agreement 6th November 2017 with cover sheet signed 9th May 2008.
 - c) Form AT5 signed by the parties 6th November 2007.
 - d) Notice to Quit removal date 7th January 2019 with certificate of posting for recorded delivery date delivered 18th October 2018.
 - e) Section 33 Notice dated 16th October 2018 requiring vacant possession as at 7th January 2019.
 - f) Search sheet for county of Angus 80214.
 - g) Section 11 Notice noting date of raising proceedings 28th February 2019.
 - h) Sheriff Officer certificate of citation for documents pertaining to CMD on 24th May 2019 at 10am in Caledonia House, Greenmarket, Dundee. The certificate is dated 16th April 2019 and issued by letterbox delivery. The Sheriff Officer being satisfied that the Respondent resided at the Property.
 - i) Rent arrears statement for the period 7th November 2017 to 25th May 2018 showing arrears of £8366.48.
 - j) AT6 stating arrears of £8366.48.

4. On 13th April 2019, all parties were written to by the Housing and Property Chamber advising of the date for the Case Management Discussion ("CMD") of 24th May 2019 at 10am in Caledonia House, Greenmarket, Dundee. The letter also requested all written representations be submitted by 3rd May 2019.

Case Management Discussion

5. The Tribunal held a Case Management Discussion ("CMD") on 24th May 2019 at 10am in Caledonia House, Greenmarket, Dundee. The Applicant was not present but was represented by Mr Stephen Forsyth. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Respondent was written to on 13th April 2019 asking for any representations to be sent to the Housing and Property Chamber no later than 3rd May 2019. No representations were submitted. It was noted that the lease and AT5 were signed on 6th November 2007. Mr Forsyth tried to call the Applicant but was not able to reach him. Mr Forsyth maintained that it did not invalidate the lease albeit that he was signed some months prior to the commencement of the lease. In addition the lease had an attached sheet signed on the 9th May 2008. This point was considered by the Tribunal and it was accepted that the lease still was valid.

Findings in Fact

6. The parties entered into a Short Assured Tenancy on 9th May 2008 with the commencement of the tenancy on 9th May 2008 for a 6 months period until 7th November 2008. An AT5 was signed by both parties on the prior to the start of the lease. The rent payments of £498.33 are due on the 9th day of each month.
7. The Housing and Property Chamber received an Application on 28th February 2019.

Reasons for Decision

8. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted.

Decision

9. The Applicant is entitled to for an Order of for recovery of possession.

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.

G Miller

Legal Member/Chair

24 MAY 19

Date