

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/17/0493

Re: Property at 24B Dorward Drive, Crail, Anstruther, KY10 3WJ (“the Property”)

Parties:

Caraille Green NHT 2012 LLP, c/o 1 India Street, Edinburgh, EH3 6HA (“the Applicant”)

Mr Aldino Di Tondo, Mrs Martha Di Tondo, 24B Dorward Drive, Crail, Anstruther, KY10 3WJ (“the Respondent”)

Tribunal Members:

Lynsey MacDonald (Legal Member)

Decision

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

- **Background**

The Applicant sought an order for eviction in respect of the property at 24B Dorward Drive, Crail, Anstruther, KY10 3WJ. An application in terms of Rule 66 (Possession on Termination of Short Assured Tenancy) was received by the Tribunal on 14th December 2017, stating that recovery was sought under section 33 of the Housing (Scotland) Act 1988.

The Applicant lodged the lease dated 15th December 2014, form AT5 dated 15th December 2014, copies of the Notice to Quit and section 33 notices in respect of both Respondents dated 15th June 2017 together with executions of service thereof, a section 11 notice dated 12th December 2017 together with confirmation of submission by email thereof.

The Tribunal fixed a Case Management Discussion and this was intimated to parties. The Respondents were advised that written representations in response to the application required to be lodged by 20th February 2018. No responses have been received. The Respondents were also told that they were required to attend the Case Management Discussion today, and were informed that the Tribunal could today may any decision on the application that could be made at the full Hearing, if the Tribunal had sufficient information and considers the procedure to have been fair.

- The Hearing

The Hearing took place in the absence of the Respondents. The Respondents telephoned the Tribunal today and advised that they would not be attending the Case Management Discussion because Mr Di Tondo was unwell. No further information was provided.

The Applicant was represented by their solicitor Mr Rory Cowan.

- Findings in Fact

1. The Applicant and the Respondents entered into a Tenancy Agreement on 15th December 2014, with the start date for the lease being 18th December 2014. The period of the lease was six months. In terms of clause 4 of the Tenancy Agreement the lease provided for monthly renewal thereafter.
2. The rent payable was £747.53 per calendar month. In April 2015 the rent was increased to £749.89 per calendar month.
3. On 16th June 2017 a Notice to Quit and a section 33 notice were served on the Respondents indicating to the Respondents that possession of the property was required by 18th August 2017.
4. The Notice to Quit and section 33 notices were served more than two months before the ish date, which is the 18th of each month.
5. The Respondents had not vacated the property.

- Reasons for Decision

The Tribunal proceeded on the basis of the written documents which had previously been lodged, together with oral submissions from the Applicant's solicitor in respect of those documents. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

The Applicant's solicitor invited the Tribunal to grant the order sought on the basis that the grounds were met, and that accordingly the Tribunal was required to grant the order.

- Decision

The Tribunal accepted that the grounds were met. The order for eviction / possession 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.

L MacDonald

Legal Member/Chair

02/03/18

Date