



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

Chamber Ref: FTS/HPC/EV/22/0270

Re: Property at 24 Cedar Avenue, Beith, North Ayrshire, KA15 1DQ ("the Property")

Parties:

Mr Craig Wallace, 12 Craufurd Crescent, Barrmill, North Ayrshire, KA15 1HR ("the Applicant")

Miss Julie Hamilton, 24 Cedar Avenue, Beith, North Ayrshire, KA15 1DQ ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Tony Cain (Ordinary Member)

Decision

At the Case Management Discussion ("CMD"), which took place by telephone conference on 4 May 2022, the Applicant was represented by Ms Kirsty Donnelly of TC Young, Solicitors, Glasgow. The Respondent was represented by Mr Alister Meek of CHAP, Ardrossan. Neither the Applicant nor the Respondent were in attendance.

The CMD was in respect of this matter and the related case bearing reference FTS/HPC/CV/22/0271.

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

Background

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of a Short Assured Tenancy Agreement ("the SAT") signed on 14 October 2014 and that commenced on 1 November 2014.
- iii. In terms of the SAT the tenancy was for an initial period of 6 months and continued thereafter on a month to month basis.
- iv. The rent payable in terms of the SAT is £98 per week.
- v. The rent arrears due as at the date of the application were £11,659.39.

- vi. On 22 June 2021, the Applicant served on the Respondent by Sheriff Officer a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) Act 1988 requiring the Respondent remove from the Property by 1 January 2022, being the ish of the SAT.
- vii. The Applicant has served on North Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms Donnelly for the Applicant made the following representations in respect of this application and the associated application FTS/HPC/CV/22/0271:-

- i. The rent arrears balance as at today's date is £11,643.39.
- ii. It is understood that the Respondent is now in receipt of Universal Credit which has prevented the arrears increasing since the application was lodged with the Tribunal.
- iii. The SAT makes no provision for payment of interest. Interest on the arrears due is sought by the Applicant from the date of the decision of the Tribunal in terms of Rule 41A of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017. A reasonable interest rate would be 2-3% per annum.
- iv. Given the rent arrears due it is reasonable that an eviction order be granted.
- v. Separately, it is reasonable that an eviction order be granted to allow the Applicant and his daughter to live in the Property. The Property is closer to the Applicant's daughter's friends. They feel alienated where they currently live which is believed to be rural.
- vi. The Applicant has made efforts to discuss the position with the Respondent but she fails to engage.
- vii. There are concerns that the condition of the Property is deteriorating and time and money will require to be spent on the Property before the Applicant and his daughter can move in.
- viii. The Respondent's consent to the eviction order will assist her in securing alternative accommodation.
- ix. The Applicant seeks an eviction order.

At the CMD Mr Meek for the Respondent made the following representations relative to both applications:-

- i. The rent arrears due are not in dispute and the Respondent has no objection to a payment order being granted.
- ii. With regard to interest on the rent arrears due the Respondent was content to leave the position to the Tribunal's discretion. The rate proposed by the Applicant did not seem excessive.
- iii. The Respondent had no opposition to an eviction order being granted and indeed her position will be assisted by an eviction order being granted in that local authority accommodation will become available.
- iv. The Respondent has been linked to a financial agency which will undertake a full benefit check for the Respondent and will assist her in managing her financial situation.

Findings in Fact

- i. The Applicant is the heritable proprietor of the Property.

- ii. The Applicant leased the Property to the Respondent in terms of a Short Assured Tenancy Agreement ("the SAT") signed on 14 October 2014 and that commenced on 1 November 2014.
- iii. In terms of the SAT the tenancy was for an initial period of 6 months and continued thereafter on a month to month basis.
- iv. The rent payable in terms of the SAT is £98 per week.
- v. The rent arrears due as at the date of the date of the CMD are £11,643.39.
- vi. The Applicant has served on North Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vii. The Respondent remains in occupation of the Property.
- viii. The Respondent seeks alternative accommodation from the local authority.
- ix. The Respondent consents to orders for payment and eviction being granted by the Tribunal.

Reasons for Decision

There is no dispute between the parties on any factual matter.

The rent arrears are admitted to be due. The rent arrears amount to more than 2 years of rent.

The Respondent, having had advice and representation, consents to an eviction order being granted against her.

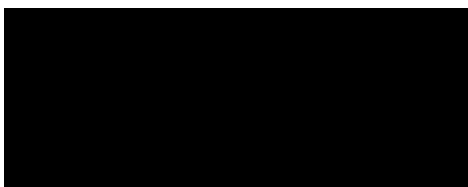
It is reasonable, having regard to the rent arrears alone, that an eviction order be granted.

Decision

The Tribunal grants an order for the Respondent's eviction from the Property.

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

4 May 2022
Date