



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/22/3873

Re: Property at 27 Kingfisher Place, Dunfermline, KY11 8JJ (“the Property”)

Parties:

Bank of Scotland PLC (Birmingham MI), The Mound, Edinburgh, EH11 1YZ (“the Applicant”)

Ms Lesley Cameron, 27 Kingfisher Place, Dunfermline, KY11 8JJ (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.

Background

The Applicant seeks an Eviction Order under Ground 2 of Schedule 5 of the Act. The Application is accompanied by a copy of the original tenancy agreement between the Respondent and her landlord, evidence of the calling up notice and extract decree of Removal under the Conveyancing and Feudal Reform (Scotland) Act 1970 and associated documentation; a copy of the AT6 and proof of its service on the Respondent and evidence of compliance with s11 of the Homelessness (Etc) (Scotland) Act 2003

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 2pm on 17 February 2023. The Applicant was represented by Mr Noor or Aberdeen Considine. The Respondent was personally present. Neither party had any preliminary matters to raise. The Respondent was opposed to the Application being granted although this appeared primarily on account of her wish to purchase the Property herself. After hearing from parties, the Tribunal made the following findings in fact:

Findings in fact

- I. *The Respondent let the Property from an individual called Elaine Chapman on a Short-Assured Tenancy which commenced on 2 May 2008;*
- II. *Elaine Chapman was sequestered. The Applicant holds a standard security over the Property which was created prior to the commencement of the Respondent's tenancy;*
- III. *The Applicant served a calling up notice and obtained an Extract Decree of Removal under the Conveyancing and Feudal Reform (Scotland) Act 1970;*
- IV. *The Respondent stopped paying any rent in February 2019;*
- V. *On 10 February 2022, the Applicant served a notice in Form AT6 on the Respondent in terms of ground 2 of Schedule 5 of the Act calling upon her to vacate the Property by 11 August 2022;*
- VI. *The Respondent failed to remove herself from the Property;*
- VII. *The Respondent is 62 years of age and lives alone in the Property which has four bedrooms. The Respondent has recently started a cleaning business. The Respondent would like to have the chance to bid for the Property as she enjoys living in it and states that she has spent money keeping it up to standard.*
- VIII. *The Applicant has complied with s11 of the Homelessness (Etc) (Scotland) Act 2003;*
- IX. *Ground 2 of Schedule 5 of the Act is established. It is also reasonable that an Eviction Order is granted.*

Decision

Having made the above findings in fact, the Tribunal unanimously granted the Application and made an Eviction Order.

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.

A McLaughlin

Legal Member/Chair

17 February 2023

Date