



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/21/0174

Re: Property at 2D Hallcraig Street, Airdrie, ML6 6AH (“the Property”)

Parties:

Miss Kelleigh McRae, 18 Swift Crescent, Glasgow, G13 4QL (“the Applicant”)

Mr Barry Collins, 2D Hallcraig Street, Airdrie, ML6 6AH (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Helen Barclay (Ordinary 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 Housing and Property Chamber received an application dated 22nd January 2021. 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 16th October 2017 and 17th April 2018 and was thereafter continued on a month to month basis. The rent payments of £475 per month were due on the 16th day of each month in advance.
3. The Tribunal had before it the following documents:
 - a) Application dated 22nd January 2021.
 - b) Short Assured Tenancy Agreement signed 13th October 2017.
 - c) Form AT5 signed by the parties on 13th October 2017.

- d) Notice to Quit dated requiring vacant possession as at 17th January 2021 with sheriff officer certificate of intimation dated 6th July 2020.
 - e) Section 33 Notice dated 3rd July 2020 stating that the tenancy terminates on 17th January 2021 with sheriff officer certificate of intimation dated 6th July 2020.
 - f) Title deeds with reference REF LAN219344.
 - g) Section 11 Notice noting date of raising proceedings 22nd January 2021.
4. On 15th April 2021, all parties were written to with the date for the Case Management Discussion (“CMD”) of 17th May 2021 at 10am by teleconferencing. The letter also requested all written representations be submitted by 6th May 2021.

Case Management Discussion

5. The Tribunal held a Case Management Discussion (“CMD”) on 17th May 2021 by teleconferencing. The Applicant was not present but was represented by Ms Vicki McGuire, Jewel Homes. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Respondent was written to on 15th April 2021 asking for any representations to be sent to the Housing and Property Chamber no later than 6th May 2021. No representations were submitted.
6. Ms McGuire informed the Tribunal that she was not aware of any issues of reasonableness. Although this is an application ending the tenancy the rent arrears prompted the application. The Respondent is on the maximum level of Universal Credit for a one bedroom property which is £360 per month. This is £115 per month less than the rent. He has not paid the shortfall. The Respondent has indicated that he is unable to leave the Property until he is given an order for eviction at which point he will be rehoused by his local authority.

Findings in Fact

7. The parties entered into a Short Assured Tenancy with the commencement of the tenancy on 16th October 2017 for a 6 months period until 17th April 2017. An AT5 was signed by both parties on the same date as the lease on 13th October 2017. The rent payments of £475 are due on the 16th day of each month.
8. The Housing and Property Chamber received an Application on 22nd January 2021.

Reasons for Decision

9. 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

10. The Applicant is entitled to an Order 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.

Gabrielle Miller

17th May 2021

Legal Member/Chair

Date