



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/21/0983

Re: Property at 2b William Street, Dundee, DD1 2NL (“the Property”)

Parties:

Nevis Properties Limited, 6th Floor Gordon Chambers, 90 Mitchell Street, Glasgow, G1 3NQ (“the Applicant”)

Miss Jane English, 2b William Street, Dundee, DD1 2NL (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Mike Scott (Ordinary Member)

Decision

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 on 16th June 2017. The rent payments of £650 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 11th May 2021.
 - b) Short Assured Tenancy Agreement signed 16th June 2017.
 - c) Form AT5 signed by the parties on 16th June 2017
 - d) Notice to Quit dated 17th August 2020.

- e) Section 33 Notice dated 17th August 2020 stating that the tenancy terminates on 22nd February 2021.
 - f) Letter to Respondent from Applicant's solicitor dated 17th August 2020 enclosing Notice to Quit, section 33 notice and AT6.
 - g) Royal Mail tracking receipt of delivery signed on 18th August 2020.
 - h) Title deeds with reference ANG 78544.
 - i) Section 11 Notice noting date of raising proceedings 26th April 2021.
4. On 24th May 2021, all parties were written to with the date for the Case Management Discussion ("CMD") of 28th June 2021 at 10am by teleconferencing. The letter also requested all written representations be submitted by 14th June 2021.
 5. On 25th May 2021, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. The Sheriff Officer being satisfied that the Respondent resided at the Property. This was evidenced by Certificate of Intimation dated 25th May 2021.
 6. On 11th June 2021, the Respondent's solicitor submitted a note of defence. It stated that the Respondent did not have grounds to oppose the Order but requested further time to find alternative accommodation.
 7. On 18th June 2021, the Applicant's solicitor submitted a response which had been sent directly to the Respondent's solicitor regarding the submission of 11th June 2021.

Case Management Discussion

8. The Tribunal held a Case Management Discussion ("CMD") on 28th June 2021 at 10am by teleconferencing. The Applicant was not present but was represented by Mr David Gibb from Tay Letting. The Respondent was represented by Ms Rebecca Menzies, solicitor, Dundee Law Centre. The Respondent was present.
9. Ms Menzies told the Tribunal that there was no opposition to the application as the paperwork was legally correct. The Respondent has applied to be housed by the local authority and a registered social landlord. Ms Menzies had contacted both but had no response. Ms Menzies asked the Tribunal to extend the period of the Order as the Respondent needed more time to find alternative accommodation. The Tribunal did not consider this to be reasonable given that the Order would not be able to be executed before 29th July 2021 then notice would need to be given. This would mean that the Respondent has had nearly 1 years notice to allow her to find new accommodation. Mr Gibb opposed any extension as there has been a significant period of time to find alternative accommodation.

Findings in Fact

10. The parties entered into a Short Assured Tenancy on 16th June 2017 for a 12 month period until 15th June 2018. The lease continued on a month to month basis thereafter. An AT5 was signed by both parties on the same date as the lease. The rent payments of £650 are due on the 16th day of each month.
11. The Housing and Property Chamber received an Application under Rule 66 which was dated 11th May 2021.
12. A section 33 notice and Notice to Quit were served legally upon the Respondent.
13. There were no issues of reasonableness to prevent the Order from being granted.

Reasons for Decision

14. 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. The Tribunal was satisfied all appropriate paperwork had been served and the Order for repossession was granted.
15. It was noted in the Respondent's submission of 11th June 2021 that a request had been made for further time to be allowed for the Respondent to find alternative accommodation. The Tribunal did not consider this reasonable given notice of the intention to evict on 17th August 2020 and the Order will be dated 29th July 2021.

Decision

16. The Applicant is entitled to for 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

28th June 2021

Legal Member/Chair

Date