



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/21/1383

Re: Property at 17a Nursery Avenue, Kilmarnock, KA1 3DP (“the Property”)

Parties:

Ms Morag McKerrell, 110 Beechwood Drive, Glasgow, G11 7HH (“the Applicant”)

Mr Peter Robertson, 17a Nursery Avenue, Kilmarnock, KA1 3DP (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and Linda Reid (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion by teleconference call on 1 September 2021, together with the related application CV/21/1384. The Applicant was represented by Ms Duke, solicitor. The Respondent was personally present on the call.
2. In this Application, the Applicant seeks an eviction order against the Respondent under section 33 of the Housing (Scotland) Act 1988. The tenancy was a short assured tenancy, Notice to Quit was given (which included the paragraphs prescribed under the Assured Tenancies (Notices to Quit Prescribed Information) (Scotland) Regulations 1988) on 1 October 2020 which terminated the contractual tenancy at its ish on 9 April 2021, tacit relocation was not operating and notice in terms of section 33(1)(d) had been given on 1 October 2020 giving six months’ notice. The Respondent confirmed that none of that was in dispute.

3. By virtue of the Coronavirus (Scotland) Act 2020, the Tribunal may now only grant an eviction order under section 33 of the 1988 Act where it is satisfied that it is reasonable to do so. The Tribunal therefore moved to consider the reasonableness of granting an eviction order.
4. Ms Duke submitted that it was reasonable to grant the order in this case. She highlighted the extended notice period required under section 33 of six months, rather than the previous two months. She submitted that the Respondent had not engaged with the landlord or taken any advice during that time. She confirmed that her firm had written to the Respondent on multiple occasions prior to the raising of this action to highlight the arrears and direct the Respondent to appropriate advice agencies. He did not engage with any of them, and did not respond to those attempts to contact him. He was in arrears of £14,610.
5. The Respondent confirmed that he had taken no advice and had not spoken to the local authority regarding housing. He had, in his own words, buried his head in the sand. He accepted that attempts had been made by the Applicant's agent to contact him, but that he had not engaged. He was not in receipt of housing benefit, and did not expect to be eligible. He accepted that he owed £14,610 in rent arrears as contended by the Applicant. He lives alone at his property.
6. The Tribunal was satisfied that it did not need to fix a Hearing in this case. The facts were not in dispute, and the Tribunal is empowered by Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 to do anything at a CMD that it may do at a Hearing, including making a decision.
7. In all of the circumstances, the Tribunal was satisfied that it was reasonable to grant the eviction order. The Applicant has met the revised test in section 33 of the 2018 Act. The Tribunal therefore granted the eviction order sought.

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. U

01 September 2021

Legal Member/Chair

Date