



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/21/3075**

**Re: Property at 65 High Street, Carnoustie, DD7 6AD (“the Property”)**

**Parties:**

**Strathern Lettings Ltd, 62 Strathern Road, Broughty Ferry, Dundee, DD5 1PG (“the Applicant”)**

**Miss Jenna Mungall or Allen, Mr Lee John McKay, 65 High Street, Carnoustie, DD7 6AD (“the Respondents”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

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

**Introduction**

This is an application under Rule 66 and Section 33 of the Housing (Scotland) Act 1988. The applicant seeks recovery of possession of the property previously let on a short assured tenancy.

Service of the papers and intimation of the Case Management Discussion (CMD) to the respondents took place by Sheriff Officer delivery on 12 January 2021.

The CMD took place by teleconference on 17 February 2022 at 2.00 pm.

The applicant was represented by Mr Mike Piggot of Messrs Lindsays solicitors. The first respondent, Miss Jenna Mungall or Allen, joined the hearing personally and represented her own interests. The second respondent failed to participate in the teleconference hearing.

### Findings and reasons

The property is 65 High Street, Carnoustie DD7 6AD.

The applicant is designed as Mr Ken Swinton of Strathern Lettings Ltd. The heritable proprietors are Mr Kenneth William Swinton and his wife Mrs Helen Mary Swinton. They are directors of Strathern Lettings Ltd. Strathern Lettings Ltd is named as the landlord on the written lease between the parties. The registered landlord is Strathern Lettings Ltd.

The respondents are Miss Jenna Mungall or Allen and Mr Lee John McKay. They are the named tenants on the written lease agreement. They were previously in a relationship and separated in late 2021. Mr McKay was aware of the CMD. He continues to attend at the property for the purposes of exercising contact with the children of his relationship with the first respondent. He collected the copy papers and details of the hearing from the let property where they were left for him by Sheriff Officers. He no longer has an active interest in the let property.

The parties entered into a short assured tenancy which commenced on 25 November 2017. In advance of the tenancy being created the tenants were provided with an AT5 which is evidenced. A copy of the document signed by both respondents is produced. The initial period of let was until 23 November 2018. In terms of Clause TWO of the lease, the tenancy has continued on a month to month basis since then.

Under and in terms of the lease between the parties, the monthly rent was stipulated at £525 per month. There was a requirement for a deposit in the total sum of £500 to be paid. With effect from 1 December 2020, the rent was increased from £525 per month to £550 per month. Relevant notice to the respondents is produced.

The respondents have fallen into arrears of rent. Payments of rent were initially substantially funded by Angus Council. The arrears as at the end of 31 December 2020 were £448.85. Arrears continued and as at the date of hearing have risen to £998.85.

There have been ongoing difficulties brought to the attention of the applicant in respect of the respondents failing to deal with their domestic waste. Angus Council have contacted the applicant on a number of occasions regarding the concerns regarding the respondents' waste and the concerns that this has for the community, including the attraction of vermin. Copy correspondence evidencing these problems has been produced.

The respondents' failure to pay the rent and to keep the property and its environment in a neat and tidy condition at all times are in breach of the tenancy conditions in terms of the written lease between the parties.

The applicant seeks to evict the respondents. The first respondent advised the Tribunal that she did not oppose the application.

The notice periods required to bring tenancies to an end were extended as a consequence of the provisions of the Coronavirus (Scotland) Act 2020. A period of 6 months' notice was required to be given despite the written lease only requiring 1 months' notice to be given.

A Notice to Quit and relevant Section 33 Notice, both of which were dated 27 May 2021, were served upon the respondents by recorded delivery. The Royal Mail track and trace available for delivery of the items evidences they were signed for on 28 May 2021. The Notice to Quit and the Section 33 Notice required vacant possession as at 30 November 2021. A full 6 months' notice was given.

A relevant Section 11 Notice under the Homelessness, etc. (Scotland) Act 2003 has been issued to Angus Council.

This is an application for eviction which proceeds under Section 33 of the 1988 Act. No specific ground is required for the purposes of terminating the tenancy and eviction other than necessary notice.

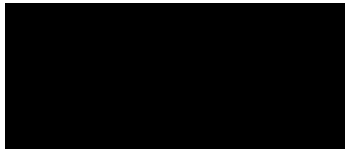
Notwithstanding this, for the purposes of the Tribunal considering the issue of reasonableness, the applicant relies, in part, upon the previous difficulties in respect of the tenant failing to address the issue of domestic waste and the issue of outstanding rent arrears. There is evidence that the landlord wrote to the tenant on 19 September 2019, 24 January 2021, 13 April 2021, 20 May 2021, 20 September 2021, 20 November 2021 and, again, on 17 February 2021 to ask the tenant to remove the rubbish and to keep the property neat and tidy at all times.

The second respondent no longer resides in the property and has no interest in the eviction process. The first respondent has 4 children. 3 are dependent upon her and reside in family with her. The first respondent wishes to move home to obtain accommodation more suitable to their needs. She has been in contact with the local authority who are most likely to make homeless accommodation available in the event of an eviction order being granted.

In all of the circumstances the Tribunal determined that it was reasonable to grant the eviction order. The Tribunal extended the period during which no eviction can be carried out beyond the standard 30 day appeal period given the personal profile of the first respondent and her dependent children. The period was extended to 31 March 2022.

## 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

17 February 2022

Date