



**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**

Chamber Ref: FTS/HPC/EV/21/3148

Re: Property at 6B Ross Avenue, Perth, PH1 1GZ (“Property”)

Parties:

**B & N Investments Ltd, 57/59 High Street, Dunblane, Perthshire, FK15 0EE
 (“Applicant”)**

**McCash & Hunter, 25 South Methven Street, Perth PH1 5PE (“Applicant’s
Representative”)**

Chloe Hamilton, 6B Ross Avenue, Perth, PH1 1GZ (“Respondent”)

**Culley & McAlpine, 40-42 South Street, Perth PH2 8PD (“Respondent’s
Representative”)**

Tribunal Members:

Joan Devine (Legal Member) and Leslie Forrest (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
 (“Tribunal”) determined that an order for possession of the Property should be
made.**

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were:

- A Short Assured Tenancy Agreement with AT5 dated 1 June 2010;
- Notice under section 19 of the Housing (Scotland) Act 1988 (“Act”) dated 11 November 2021 (“AT6”);
- Copy sheriff officer execution of service evidencing service of the AT6 on the Respondent on 15 November 2021;
- Notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 20 December 2021;
- a copy of a communication from Alexander Whytock, Safer Community Co-ordinator, to the Respondent dated 24 April 2020 regarding anti-social behaviour at the Property.

A case management discussion (“CMD”) took place before the Tribunal on 5 April 2022. Reference is made to the note of the CMD. At the conclusion of the CMD the Tribunal noted that the issue to be resolved was whether the ground for eviction had been established. As this depended upon factual matters that were in dispute a Hearing was fixed for 12 July 2022.

In advance of the Hearing the Applicant lodged the following documents :

- Timeline of events prepared by Perth & Kinross Safer Communities Team covering the period 1 June 2020 to 19 March 2022
- Undated Report from Police Scotland regarding the Respondent
- Email from Aline Niven-Smith of James Gibb Property Factors dated 31 May 2022

A postponement request was received on behalf of the Applicant which was granted. The Hearing was discharged and re-arranged for 22 September 2022. A further postponement request was received on behalf of both the Applicant and the Respondent which was granted. The Hearing was discharged and re-arranged for 23 November 2022. A postponement request was received on behalf of the Respondent which was refused.

By email dated 21 November 2022 the Respondent’s Representative told the Tribunal that the Respondent wished to withdraw her opposition to the Application for eviction and would not be in a position to present a defence.

Hearing on 23 November 2022

The Hearing scheduled for 23 November 2022 took place by conference call in order to consider whether or not it was reasonable to grant an order for eviction. The Applicant was represented by Samantha Lamond of the Applicant’s Representative. The Respondent was represented by John McLaughlin of the Respondent’s Representative.

Mr McLaughlin told the Tribunal that the Respondent with her partner, Mr Townsley, who had lost the tenancy of the property he occupied. He said that the Respondent had two children but they did not live with her. They had been taken into care and had subsequently been adopted. He said that the Respondent intended to re-establish contact with one of the children. He said that the Respondent was not in employment. As regards alternative accommodation, Mr McLaughlin said that the Respondent had been offered a flat on Deanfield Road which she had rejected as she found access to the flat difficult for herself and her mother (who had various health and mobility issues), as it lacked storage and due to the lack of parking for her mother. He said that the Respondent had made multiple applications for a private let but had been unsuccessful. He said that the current application based on anti-social behaviour being outstanding was problematic for the Respondent seeking alternative accommodation. Mr McLaughlin told the Tribunal that the Respondent had borderline personality cluster B disorder. He said that she probably also has Asperger’s. He said that she found legal issues difficult to follow. He said that she also suffered from a degenerative spinal condition which may lead to her being wheelchair bound. He said that she could not live with her mother as her mother’s landlord had refused permission for her to move into her mother’s home which was a private let one bedroom flat.

Ms Lamond told the Tribunal the Property was within a block of flats surrounded by residential properties. She said that the neighbours were intimidated by the Respondent. She said that in light of the extensive history of anti-social behaviour it was reasonable to grant an order for eviction. She referred to a submission that had been lodged with the Tribunal on 22 November 2022. She said that she relied upon the report from Police Scotland and the timeline of events prepared by the safer communities team. She said that the Respondent had been charged with an offence regarding the supply of heroin. She said that the Respondent's partner had also been charged and evicted from his property in July 2022.

Mr McLaughlin noted that the Respondent had resided in the Property for 13 years and it was only in recent years that concerns had arisen. He said that she was capable of sustaining a tenancy. Mr McLaughlin invited the Tribunal to delay the date for enforcement of an order for eviction if one was granted.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement with form AT5 dated 1 June 2010.
2. The tenancy agreement was for the period 1 June 2010 to 30 November 2010 and month to month thereafter.
3. A Notice in terms of Section 19 of the 1988 Act dated 11 November 2021 was served on the Respondent on 15 November 2021.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 20 December 2021.
5. The Respondent and a person visiting the Respondent at the Property had acted in an anti-social manner in relation to persons residing, visiting or otherwise engaging in lawful activity in the locality.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 18 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy. The Applicant sought recovery of possession of the Property on ground 15(b) of schedule 5 to the Act which is that the tenant or a person visiting the house has acted in an anti-social manner in relation to persons residing, visiting or otherwise engaging in lawful activity in the locality.

The Tribunal considered the timeline of events prepared by Perth & Kinross Safer Communities Team covering the period 1 June 2020 to 19 March 2022 and the report from Police Scotland regarding the Respondent and determined that the ground for

eviction had been established. The Tribunal carefully considered the submissions made by the Representatives for the Applicant and the Respondent and determined that in light of the volume and nature of complaints made regarding the conduct of the Respondent and Mr Townsley and the impact of their behaviour on the local community, it was reasonable to grant an eviction order.

Decision

The Tribunal grants an Order for possession of the Property.

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.

J Devine

Legal Member

Date : 23 November 2022