



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section Section 33 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/22/1365

Re: Property at Flat V 21 Marine Parade Walk, Dundee, DD1 3AU (“the Property”)

Parties:

Sean Lewis Properties, India Buildings, 86 Bell Street, Dundee, DD1 1HN (“the Applicant”)

Ms Kimberley Bruce, John McLean, Flat V 21 Marine Parade Walk, Dundee, DD1 3AU (“the Respondents”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (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. On 18th October 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 25th November 2022 at 10am by teleconferencing. The letter also requested all written representations be submitted by 8th November 2022.

3. On 19th October 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondents personally. This was evidenced by Certificate of Intimation dated 19th October 2022.

Case Management Discussion

4. The Tribunal held a Case Management Discussion (“CMD”) on 25th November 2022 at 10am by teleconferencing. The Applicant was not present but was represented by Ms Amy Lewis. The Respondents were present.
5. Ms Lewis told the Tribunal that she was still seeking an order for eviction. There have been no payments made by the Respondents since October 2021. Though a payment was made by Dundee City Council in March 2022. The outstanding amount has now risen to £9700.
6. Mr Mclean stated that he was not in a position to oppose the granting of an order. The Respondents have found it difficult to pay the rent. They are both working. They are admitting the debt. They are 4th from the top of the list to be rehoused with their local council and have discussed with the local council about homeless accommodation. They require to take the Tribunal’s eviction order to the local council before they will be rehoused. They both now wish matters to move forward to allow for them to move onto the next stage of their lives.
7. The Tribunal noted what both parties had said and considered it appropriate to grant an order for eviction.

Findings in Fact

8. The parties entered into a Short Assured Tenancy on 1st July 2014 for a 6 months period until 31st December 2012 and continued monthly thereafter. An AT5 was signed by both parties on the same date as the lease which was 27th June 2014. The rent payments of £670 are due on the 1st day of each month. The rent payments due then increased to £700 per month.
9. The Housing and Property Chamber received an Application on 5th August 2022.
10. A Notice to Leave and Section 33 Notice were both issued and served upon the Respondents on 15th October 2021. A section 11 notice was issued to the local authority stating that proceedings would not be raised before 10th May 2022.
11. A rent statement was lodged. It stated that between 31st July 2021 to 1st September 2022 the rent arrears were £8300. This figure has now risen to £9700. The last payment made by the Respondents was in October 2021.
12. The Respondents are looking to be rehoused by the local authority once the Order has been granted by the Tribunal.

Reasons for Decision

13. 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

14. The Applicant is entitled to an Order of recovery for 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

25th November 2022

Legal Member/Chair

Date