



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/22/2899

Property: 1/1, 58 Motehill Road, Paisley PA3 4SU ("Property")

Parties:

David Allen, 68 Ballyrashane Road, Coleraine BT52 2LL ("Applicant")

Penny Lane Homes, 10-12 High Street, Renfrew PA4 8QR ("Applicant's Representative")

Tracey Taylor, 1/1, 58 Motehill Road, Paisley PA3 4SU ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Jane Heppenstall (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: Short Assured Tenancy Agreement dated 10 August 2007; AT5 signed by the Respondent on 10 August 2007; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 1 June 2022 addressed to the Respondent; post office proof of posting on 1 June 2022; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 16 August 2022; and certificate of service by Sheriff Officer evidencing service of the Application on the Respondent on 21 October 2022.

Case Management Discussion ("CMD")

A CMD took place on 30 November 2022 at 10am by conference call. In attendance for the Applicant was Ian Troy of the Applicant's Representative. There was no

appearance by the Respondent. In advance of the CMD the Applicant's Representative lodged with the Tribunal an inspection report dated 22 November 2022 containing photographs of the Property.

Mr Troy told the Tribunal that he had managed the Property for some time. He said that the Respondent's child died a long time ago. He said the Applicant's Representative had inspected the Property each year. Mr Troy said that approximately 10 years ago he noticed the Property was deteriorating in that the Respondent was hoarding rubbish / other items in the Property. He said matters became worse in the winter. He said that the Applicant's Representative would issue a letter to the Respondent and she would clear up the Property. Mr Troy said that over the past three / four years the situation had changed and the Property was in a poor state all year round. He said that in the past 18 months communications had broken down. He said that 3 / 4 years ago the Respondent reported that the boiler was broken. A contractor attended the Property and said that a new boiler was needed. The Applicant instructed the contractor to install a new combi boiler. The contractor attended the Property but was unable to install the new boiler due to lack of access to areas of the Property that he required. Mr Troy said that as the boiler did not work, he knew that the Respondent did not have heating or hot water. He said that there was an electric shower in the Property so she would be able to wash. Mr Troy said that last year the Property was inspected and it was apparent that the smoke alarms had been removed from the ceiling. He arranged for an electrician to attend then Property but it was at this point that access stopped. Mr Troy said that the Applicant was unable to comply with his obligations as a landlord. Mr Troy told the Tribunal he attended the Property on 22 November 2022 and prepared the inspection report produced. He said he was unable to open the door due to the rubbish in the hallway.

Mr Troy told the Tribunal that he had attended the Property and spoken with the Respondent at the start of 2022. She had broken down in tears and said she saw no way out of her situation. Mr Troy then contacted Renfrewshire Council who directed him to Adult Services. They reached out to the Respondent but told Mr Troy there was nothing further they could do if the Respondent did not contact them. Mr Troy told the Tribunal that the Respondent was in full time employment in a chip shop and had a partner who did not live with her.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 10 August 2007.
2. The Respondent had signed the form AT5 on 10 August 2007.

3. The tenancy was for the period 10 August 2007 to 10 February 2008 and continued by tacit relocation.
4. A Notice to Quit dated 1 June 2022 was served on the Respondent on 1 June 2022 stating that the tenancy would terminate on 10 August 2022.
5. A Notice in terms of Section 33 of the 1988 Act dated 1 June 2022 was served on the Respondent on 1 June 2022 stating that possession of the property was required on 10 August 2022.
6. The tenancy reached its *ish* on 10 August 2022 and is not continuing by tacit relocation.
7. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy. The Tribunal noted that a Section 33 Notice and Notice to Quit had been served on the Respondent giving more than two months' notice that the Applicant required possession of the Property. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue 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: 30 November 2022