



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/22/3221

Re: Property at 2/1 19 Cleghorn Street, Dundee, DD2 2NQ (“the Property”)

Parties:

Cincor Ltd, 31 Dalhousie Street, Carnoustie, DD7 6HE (“the Applicant”)

Mr Lee Derby, Miss Demi Lee Courtney, 2/1 19 Cleghorn Street, Dundee, DD2 2NQ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ann Moore (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. The Tribunal had before it the following documents:
 - a) Application dated 5th September 2022 received by the Housing and Property Chamber.
 - b) Short Assured Tenancy Agreement signed 3rd July 2017.
 - c) Form AT5 signed by the parties on 3rd July 2017.
 - d) Notice to Quit dated requiring vacant possession as at 3rd September 2022 with sheriff officer certificate of intimation dated 1st July 2022.

- e) Section 33 Notice dated 29th June 2022 stating that the tenancy terminates on 3rd September 2022 with sheriff officer certificate of intimation dated 1st July 2022.
 - f) Section 11 Notice noting date of raising proceedings 5th September 2022.
3. On 29th November 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 1st February 2022 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 20th December 2022.
 4. On 2nd December 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 2nd December 2022.

Case Management Discussion

5. The Tribunal held a Case Management Discussion (“CMD”) on 1st February 2022 at 2pm by teleconferencing. The Applicant was not present but was represented by Mr Alex Aimer, Direct Lettings. The Respondent was not present but was represented by Mr Kenneth Marshall, solicitor, Dundee Law Centre.
6. Mr Aimer confirmed that he was still seeking an order for eviction. Mr Marshall raised that there were outstanding rent arrears. Mr Aimer told the Tribunal that the rent arrears are currently £4216. The last payment was made in August 2022 by Universal Credit. He does not know why the Universal Credit payments have stopped.
7. Mr Marshall told the Tribunal that he considered that the notices had been issued correctly meaning that the tenancy had been terminated and had not continued by tacit relocation. He told the Tribunal that while the Respondent had told him that rent had been withheld due to repairs needing to be undertaken that this had occurred some time ago and would not be able to be considered under reasonableness. Accordingly, the Respondent is not able to oppose an Order for eviction.
8. Mr Marshall also noted that the Respondent had told him that the Second Named Respondent, Ms Demi Lee Courtney, had left the Property approximately four years ago.

Findings in Fact

9. The parties entered into a Short Assured Tenancy on 3rd July 2017 for a 6 months period until 3rd January 2018. An AT5 was signed by both parties on the same date as the lease. The lease was then continued by tacit relocation. The rent payments of £365 are due on the 3rd day of each month.

10. A Notice to Quit and section 33 notice were served upon the Respondents on 1st July 2022 by sheriff officers.
11. The Second Named Respondent, Ms Demi Lee Courtney, left the Property approximately four years ago.
12. The Housing and Property Chamber received an application dated 5th September 2022.
13. There are no issues of reasonableness that would prevent an order for eviction being granted.

Reasons for Decision

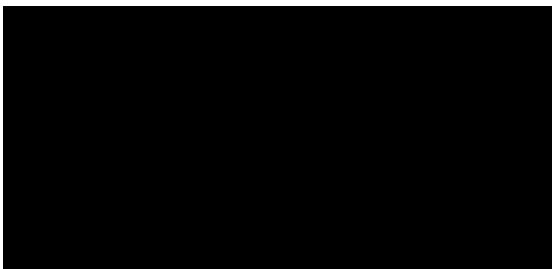
14. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted.

Decision

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



Legal Member/Chair

1st February 2023

Date