



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/22/3452

Re: Property at 9 Petrie Way, Arbroath, DD11 4GS (“the Property”)

Parties:

Mr Wayne Antony Strachan, 12 Elliot Street, Arbroath, DD11 3BY (“the Applicant”)

Miss Jill Strachan, 9 Petrie Way, Arbroath, DD11 4GS (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction 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 application was dated 20th September 2022. The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. On 28th November 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 15th March 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 19th December 2022.
3. On 29th November 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 29th November 2022.

4. On 14th December 2022, the Applicant's solicitor emailed the Housing and Property Chamber increasing the amount sought in the conjoined case from £5000 to £6500.
5. On 13th January 2023, the Respondent's solicitor emailed the Housing and Property Chamber asking for a postponement of the CMD on 18th January 2023. The Respondent's solicitor stated that they had not been given full instructions as they had only just been appointed. The Tribunal was emailed the postponement request on 17th January 2023. The postponement request was granted.
6. On 31st January 2023, the Applicant's solicitor emailed the Housing and Property Chamber to say that the same solicitor had emailed their office on 5th May 2022 in relation to the Respondent's rent arrears.
7. This case was conjoined with the case FTS/HPC/CV/3456.

Case Management Discussion

8. A CMD was held on 15th March 2023 at 10am by teleconferencing. The Applicant was represented by Mr Rory Mellis, Solicitor, Thorntons WS. The Respondent was not present or represented. The Tribunal proceeded in terms of Rule 29 of the Rules.
9. Mr Mellus said, in terms of reasonableness, that the arrears had now risen from the amended amount of £6500 to £8000. There have been no payments made by the Respondent. Mr Mellus said that the Applicant and Respondent were brother and sister. He said that the relationship became acrimonious after the Respondent stopped paying the rent. Mr Mellus explained that there is no rent account as such. The Applicant had kept a record of the Respondent's payments.
10. Mr Mellus said that there had been no contact from the Respondent for some time. Mr Mellus said that the Applicant believed that the Respondent was working prior to 2021. He believes that she may not be working now. The Applicant has not applied for direct payments from the DWP as he does not know details of any benefits awarded.
11. Mr Mellus said that the Applicant owns four properties. He raised the application as he intends to sell his properties and wishes to purchase one with his partner.

Findings in Fact

12. The parties entered into a Short Assured Tenancy on 13th April 2015. An AT5 was signed by both parties on 25th March 2015. The end date of the tenancy was detailed in the lease as 14th April 2018. It was continued on a month to month basis thereafter by tacit relocation. The rent payments of £500 is due

each month. This amount had been reduced from £550 in 2020. An AT5 was included with the application which was dated 25th March 2015.

13. The Applicant issued a Notice to Quit and Section 22 Notice on the Respondent dated on 17th February 2022. This was served by sheriff officers on 22nd February 2022.
14. A Section 11 Notice was served up on the Respondent's local authority by email on 20th September 2022.
15. The Respondent has not paid her rent since 17th December 2021. She has not made contact with the Applicant regarding the outstanding rent. Though not a requirement of this process of seeking an order for eviction under Rule 66, Pre Action Requirement letters were sent to the Respondent on 16th March 2022 and 20th May 2022.
16. There are no issues of reasonableness that prevent an eviction order being granted.

Reasons for Decision

17. 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 and the Order for eviction was granted.

Decision

18. The Applicant is entitled to an order of for eviction.

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.



15th March 2023

Legal Member/Chair

Date