

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision 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/22/3700

Property: 19 Badger Grove, Broxburn EH52 5TG (“The Property”)

Parties: Ms Linda Patterson, Mr Arthur Alexander, 44 Craigengar Avenue, Uphall EH52 5SR (“The Applicant”)

Ms Michele Cadona, 19 Badger Grove, Broxburn EH52 5TG (“The Respondent”)

Tribunal Members:

Mark Thorley (Legal Member)
Mike Scott (Ordinary Member)

Decision

The First Tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order for eviction be granted.

Background

1. The applicant applied to the First Tier Tribunal for Scotland (Housing and Property Chamber) by application dated 5 October 2022.
2. Accompanying the application were the following documents:
 - (a) Copy Tenancy Agreement dated the 20 May 2014
 - (b) Copy Form AT5 dated 20 May 2014
 - (c) Copy Tenancy Agreement dated 1 April 2009
 - (d) Copy Form AT5 dated 30 March 2009
 - (e) Copy Notice to quit dated 28 July 2022
 - (f) Copy Section 33 Notice dated 28 July 2022

- (g) Copy proof of delivery dated 30 July 2022
- (h) Copy Section 11 Notice dated 5 October 2022
- (i) Certificate of Service dated 5 October 2022

3. The applicant narrated that there was an interest only mortgage over the property of £135,000. The property was worth between £170,000 and £210,000. At the time of application the mortgage instalment was £585.37. The monthly mortgage was £695. The rent had not increased since 2009. There were other outgoings in connection with the property.
4. The application was received by the tribunal on 10 October 2022. Certain further information was sought as a result.
5. That information was provided.
6. On 14 December 2022 the application was accepted for determination. Thereafter the application was served upon the respondent by sheriff officers on 8 February 2023. No written representations were provided.

Case Management Discussion

1. At the case management discussion Mr Gordon attended on behalf of the applicant. The respondent attended herself.
2. The respondent essentially indicated that she wanted an order of eviction to be granted. She has four children age 15, 12 and twins of 9. She wishes to remain within the locality. She needs an order to be able to be rehoused.
3. The applicant indicated that the monthly mortgage had now increased to the sum of £835.41. Accordingly there was a loss in connection with the monthly mortgage.

Findings in Fact

1. The parties initially entered into a Tenancy Agreement on 1 April 2009. That subsequently was converted into a tenancy on 1 June 2014.
2. Rent is currently due at the rate of £695 per month.
3. The current monthly mortgage payment is £835.41.
4. There are additional costs that the applicant has to meet as well in respect of buildings insurance, factors fees and boiler care.

5. The current mortgage payment is significantly in excess of the rent received.
6. The applicant wishes to sell the property in order to pay off the mortgage.

Reasons for Decision

There was no dispute between the parties. The respondent in fact wanted an order to be granted by the tribunal in order to facilitate for her alternative housing.

The case was well made out. There was ample paperwork in support of the application. That was in addition further spoken to by Mr Gordon acting on behalf of the applicant. The applicant is now in an impossible position. The mortgage payment each month is £835.41 and the monthly rent only £695. There is an immediate loss there. However there were other outlays to meet as well. The property is therefore running at a loss. The applicant wishes to sell the property. The tribunal accepted that. That taken together with the respondent concurring with the order meant that the tribunal granted the order.

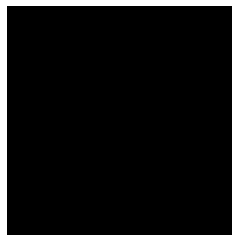
Decision

To grant an order of 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.

Legal Member/Chair:



Date: 14 March 2023