



**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/22/3825

**Re: Property at Flat 3/1, 27 Silverbanks Road, Glasgow, G72 7FJ (“the
Property”)**

Parties:

**Mr Charles John Dyke, 64 Clover Drive, Rushden, Northamptonshire, NN10
0UH (“the Applicant”)**

**Miss Debra Donnelly, Flat 3/1, 27 Silverbanks Road, Glasgow, G72 7FJ (“the
Respondent”)**

Tribunal Members:

Mark Thorley (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

**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) (‘the tribunal’) by application dated 17 October 2022.
2. Accompanying the application were the following documents:
 - (a) Tenancy Agreement
 - (b) AT5
 - (c) Notice to Quit
 - (d) Section 22 Notice
 - (e) Sheriff Officers Execution of Service relating to the Notices
 - (f) Section 11 Notice
 - (g) Email to Local Authority intimating Section 11 Notice

(h) Rent Statement

- 3 The application was received by the tribunal on 19 October 2022. Further information was sought.
- 4 On 19 December 2022 the application was accepted for determination.
- 5 The application was intimated by sheriff officers on 10 January 2023.
- 6 No written responses were received from the respondent following upon intimation of the application

Case Management Discussion

1. At the case management discussion Ms Donnelly solicitor from TC Young attended on behalf of the applicant. The respondent did not attend.
2. She was able to provide further information.
3. The further information was to the extent that there had been a leak at the property in late December. An insurance assessor needed to attend at the property but had been denied access. He had attended on 22 occasions. The leak had penetrated to the property below. The assessor had not been provided access.
4. Currently the applicant is due to make payment of a mortgage at the rate of £695 per month which was on a monthly variable rate. He cannot remortgage the property as there is no equity in it. Rent is being paid at the rate of £415.40 per month. It is a housing benefit payment. There is a deficit each month between what is paid by way of housing benefit and the rent.
5. The applicant accordingly is in a loss making position each month. He only rents out a singular property. In addition to that he has other losses that he sustains in relation to factoring bills. He has put in a new boiler to the property. His health has suffered and he has now been diagnosed with IBS.
6. In terms of the respondent she is 51 years of age. She has what is understood to be an adult son. No further information is known apart from that she contacted South Lanarkshire Council regarding accommodation on 22 October 2022.

Findings in Fact

1. The parties entered into a Tenancy Agreement for the property at 27 Silverbanks Road, Flat 3/1, Glasgow G72 7FJ dated 7 September 2007. Rent

was due in the sum of £450 per calendar month payable monthly and in advance.

2. As at the date of the case management discussion rent in the sum of £2,446.20 was outstanding.
3. The respondent has housing benefit paid on her behalf in connection with the rent. The housing benefit paid is less than the amount of the rent. The respondent has not met the shortfall since the tenancy commenced.
4. The monthly mortgage payment for the applicant is £695. The amount of rent paid is less than the monthly mortgage.
5. The applicant only rents out one property.
6. The applicant is also due to pay other bills in connection with the property including factoring fees.
7. The respondent is 51 years of age. She has an adult son.

Reasons for decision

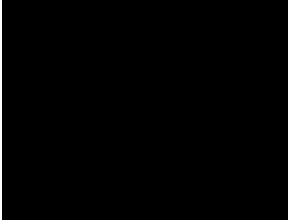
1. The paperwork provided by the applicant was all in order. The applicant's solicitor spoke to the basis upon which the applicant sought the return of the property. There were various heads upon which this was being sought in terms of the sale –
 - (a) The property was in negative equity;
 - (b) The mortgage was £695 and the rental income was due at £450;
 - (c) There were significant rent arrears;
 - (d) The applicant had other bills to pay for the property including factoring fees;
 - (e) The applicant only rents out one property;
 - (f) The applicant has sustained significant losses in relation to the property;
 - (g) The applicant's health has suffered.
2. In terms of reasonableness all that is known is that the respondent is 51 years of age with an adult son. She in fact has never paid the full rent. Rent has been paid by housing benefit.
3. The respondent has reached out to South Lanarkshire Council in relation to accommodation. The tribunal considered that the various tests were met in relation to the applicant wishing to sell the property and that it was reasonable to do so.

Decision

To grant an order for eviction of the respondent.

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

23 February 2023

Date