



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act 1988 (Act)

Chamber Ref: FTS/HPC/EV/22/4387

Re: Property at 9 Forres Crescent, Dundee, DD3 0EP (“the Property”)

Parties:

Mr William Stewart, Mrs Margaret Stewart, 19 Falcon Way, Forfar, DD8 3FW (“the Applicant”)

Miss Vicky Ramsay, Mr Sean McGregor, 9 Forres Crescent, Dundee, DD3 0EP; 9 Forres Crescent, Dundee, DD3 0EP (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

Background

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents lodged in advance of the CMD:

1. Application dated 8 December 2022;
2. SAT commencing 1 August 2014;
3. Notice to Quit dated 2 August 2022;
4. Section 33 Notice dated 2 August 2022;
5. Certificate of Posting Notice to Quit and Section 33 Notice dated 2 August 2022 along with Track and Trace receipt dated 3 August 2022;
6. Rent Statement as at November 2022 and updated Rent Statement as at May 2023;

7. Email to local authority enclosing section 11 Notice dated.

Hearing

The case called for a Hearing by conference call on 19 September 2023. The Applicants did not participate but were represented by their solicitor, Mr Couston. Both Respondents participated and represented themselves.

The Tribunal identified that there was no evidence of service of the section 11 Homelessness Notice on the local authority. The Applicants' solicitor undertook to forward this to the Tribunal.

The Tribunal explored the issue of reasonableness with the Parties. The Applicants had in excess of 10 Properties which they let. They were progressively selling these in contemplation of retirement. Mr Couston could not confirm whether the Applicants would relet or sell this particular Property. There were rent arrears which currently stood at £12,170.

The Respondents live together in the Property with their 2 young children. The Second Respondent has been off work due to mental health issues. He is hoping to get back to work shortly. The First respondent works part-time, 21 hours per week. They have 2 sons aged 12 and 4 who attend local schools. They have lived in the Property nearly 9 years. There are rent arrears although the amount is not agreed. The Respondents intend to agree a repayment plan with the Applicants.

The Respondents have secured alternative housing with the Home Group and have signed a lease in respect of that. They will be moving in the next week or so. They do not oppose the grant of an order for recovery of possession.

The Tribunal then considered the eviction application before it.

The Tribunal considered the oral and documentary evidence from the Applicant and in so far as material made the following findings in fact:

1. The Parties let the subjects under an SAT commencing 2 March 2017;
2. An AT5 had been served on the Respondent prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served on 3 August 2022;
4. Section 11 Notice had been served on the local authority;
5. The SAT had reached its end and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicants had given the Respondents notice that they required possession;
9. The Respondents are in rent arrears;
10. The Respondents have secured alternative housing and will be moving in the next week or two.

The Tribunal considered all of the evidence and submissions. The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant

the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

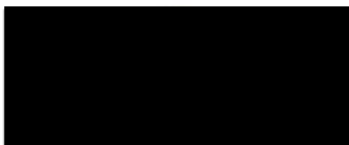
The Tribunal granted the application for eviction and recovery of possession. The Tribunal noted that the eviction order would be subject to the provisions of the **Cost of Living (Tenant Protection) (Scotland) Act 2022**.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.



19 September 2023

Legal Member/Chair

Date