



**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/21/0584

Re: Property at Flat 6, 158 South Street, Perth, PH2 8PA (“the Property”)

Parties:

Winside Land Developments Ltd, Graybank Road, Perth, PH2 0LW (“the Applicant”)

Mr Tomasz Czub, Flat 6, 158 South Street, Perth, PH2 8PA (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Mike Scott (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 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 parties entered into a Short Assured Tenancy between 1st October 2017 and 30th September 2018. The rent payments of £300 per month due each month in advance. It is noted that the lease states that the initial lease period was from 1st October 2017 to 30th September 2017. It is accepted that the intention by all parties is the initial period of the lease should end on 30th September 2018 and was dated 2017 erroneously.

3. The Tribunal had before it the following documents:
 - a) Application dated 4th March 2021.
 - b) Short Assured Tenancy Agreement signed 28th September 2017.
 - c) Form AT5 signed by the parties on 14th September 2017.
 - d) Notice to Quit dated 28th July 2020 requiring vacant possession as at 31st October 2020 with sheriff officer certificate of intimation dated 28th July 2020.
 - e) Section 33 Notice dated 28th July 2020 2019 requiring vacant possession as at 31st October 2020 with sheriff officer certificate of intimation dated 28th July 2020.
 - f) AT6 dated 28th July 2020 with sheriff officer certificate of intimation dated 28th July 2020.
 - g) Rent account from October 2017 to March 2021.
 - h) Correspondence from the Applicant to the Respondent regarding entry to the Property.
 - i) Photos of rubbish left in the common areas of the Property.
 - j) Section 11 Notice noting date of raising proceedings 1st March 2021.
4. On 19th April 2021, all parties were written to with the date for the Case Management Discussion (“CMD”) of 19th May 2021 at 10am by teleconferencing. The letter also requested all written representations be submitted by 10th May 2021.

Case Management Discussion

5. The Tribunal held a Case Management Discussion (“CMD”) on 19th May 2021 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Mike Kemp from Thorntons Solicitors. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Respondent was written to on 19th April 2021 asking for any representations to be sent to the Housing and Property Chamber no later than 10th May 2021. No representations were submitted.
6. Mr Kemp stated that there were no issues of reasonableness that required to be brought before the Tribunal that would prevent the Order from being granted. Mr Kemp stated that the information in the submission continues to support that it is reasonable to grant the Order. This is namely that-
 - a) The Respondent is in rent arrears amounting to £2700. Mr Kemp was not aware of any outstanding Universal Credit Housing Benefit issues. The last payment was received on 23rd April 2021. There was no interaction from the Respondent advising that he had made the payment. It is unclear if this was a payment made by Universal Credit or by him directly.
 - b) The Respondent had refused entry to the Property to allow the cistern to be fixed. This matter was outstanding at the point of the application. The water was leaking into the flat below. The situation was only resolved after 5 letters had been sent to the Respondent including one in English

and Polish. The Applicant employed a joiner to go to the flat and remove the door to allow the plumber access. The repair was done and it was noted that the kitchen was so badly damaged that it will need replaced. The door was then replaced with the same lock. The Respondent was in the Property throughout this but was not conscious.

- c) The Respondent has been leaving various items of rubbish in the common area of the block of flats. This has resulted in the local authority refuse service refusing to collect the rubbish from the back of the house. There have been no recent complaints regarding this from other tenants in the block of flats. However, the Applicants were contacted on 17th April 2021 by the police as they had forced entry to the Property and the locks had to be changed as a result. The Applicants were not informed the reason that the police required entry to the Property.
7. The Tribunal was satisfied that all the documents had been appropriately served and there were no ground on reasonableness that the Order should not be granted.

Findings in Fact

8. The parties entered into a Short Assured Tenancy on 1st October 2021 for a 12 month period until 30th September 2018. An AT5 was signed by both parties on 14th September 2017. The rent payments of £300 per month are due in advance each month.
9. The Housing and Property Chamber received an Application dated 4th March 2021.
10. The Respondent is in arrears with his rent, he has refused to allow repairs to be undertaken to the Property and had been leaving significant levels of rubbish in the common areas of the Property.

Reasons for Decision

11. The Tribunal was satisfied that there were no issues of reasonableness before them that would mean that the Order should not be granted 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

12. 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.

Gabrielle Miller

19th May 2021

Legal Member/Chair

Date