



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 (Act)

Chamber Ref: FTS/HPC/EV/22/2742

Re: Property at 36 Brown Avenue, Troon, KA10 6PR (“the Property”)

Parties:

George Bicket and Company Ltd, 1 Academy Street, Troon, KA10 6AQ (“the Applicant”)

Miss Debbie Harrison, 36 Brown Avenue, Troon, KA10 6PR (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

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:

1. Application received 5 August 2022;
2. SAT commencing 24 November 2017 and AT5;
3. Notice to Quit dated 10 January 2022;
4. Section 33 Notice dated 10 January 2022;
5. Certificate of Service by Sheriff Officers of Section 33 Notice and Notice to Quit dated 13 January 2022;
6. Section 11 Notice with proof of service;

7. Certificate of Service by Sheriff Officers of CMD Notification from Tribunal to Respondent dated 11 January 2023.
8. Rent arrears statement;
9. Email from Gas Engineer dated 13 January 2023.

Case Management Discussion (CMD)

The Applicant's Director Mr Jamie Bicket appeared and represented the Applicant. The Respondent did not appear and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate. She did not. The Tribunal were satisfied that the Respondent had received notification of the CMD and the fact that the Tribunal could proceed in her absence and the Tribunal could make a Decision if it considered it had sufficient information to do so and the procedure was fair.

The Tribunal accordingly proceeded in the Respondent's absence.

Mr Bicket confirmed to the tribunal that the Respondent was currently in excess of £2,100 in arrears. The Respondent lived alone in the Property and had not paid the full rent for a number of months. Rent arrears continued to accrue at a rate of £70 per month as the DWP paid £425 per month whereas the rent was £495 per month. The Respondent had failed to engage with the Applicant and attempts to inspect the gas boiler were being thwarted by the Respondent's failure to respond to attempts to arrange access.

Mr Bicket was unaware of the Applicant's personal circumstances.

Decision and Reasons

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 24 November 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 13 January 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 Applicant had given the Respondent notice that it required possession;
9. The Respondent was in rent arrears in excess of £2,100 as at the date of the CMD and arrears continued to accrue at a rate of £70 per month; and
10. The Respondent failed to engage with the Applicant and also with the gas engineer instructed to inspect the gas boiler in the Property.

The Tribunal considered all of the evidence and submissions. The Tribunal was satisfied that it had sufficient information to make a Decision and that it was fair to do so.

The Tribunal was satisfied that the Ground for eviction had been established as required under section 33 and Rule 66.

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

The Tribunal granted the application for eviction and 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.

A Strain

24 February 2023

Legal Member/Chair

Date