



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/23/3059

Re: Property at 56 Abercromby Street, Broughty Ferry, Dundee, DD5 2PH (“the Property”)

Parties:

Mr Angus Johnston, 33 Nimrod Street, Broughty Ferry, Dundee, DD5 3FL (“the Applicant”)

Ms Allison Morris, 56 Abercromby Street, Broughty Ferry, Dundee, DD5 2PH (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 66 for an order to evict the Respondent from the property.
2. By decision dated 18 September 2023, a Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 18 October 2023 informing both parties that a CMD had been assigned for 24 November 2023 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a

decision today on the application. The Respondent was invited to make written representations by 8 November 2023.

4. On 21 November 2023, the Tribunal received written representation from the Respondent's representative.

The case management discussion

5. The CMD took place by conference call. The Applicant was represented by Mrs Elaine Elder and the Respondent by Ms Colette Goodson. The Applicant's representative explained that this is the only rental property owned by the Applicant. The maintenance costs are high in relation to the property and the Applicant intends to sell the property. The Applicant's representative moved for an eviction order to be granted and submitted that it was reasonable to grant the order. The Respondent did not consent to the order. She is receiving assistance from her representative in relation to an application to the local authority for alternative accommodation.

Findings in Fact

6. The parties entered into a short assured tenancy which commenced 26 March 2016.
7. The Applicant served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by sheriff officer on 15 June 2023.
8. The short assured tenancy had reached its end.
9. Tacit relocation was not operating.
10. No further contractual tenancy is in operation.

Reason for Decision

11. The Tribunal proceeded on the basis of the documents and the submissions made at the CMD. Although the Respondent did not consent to the application, the Respondent's position was neutral as to whether it was reasonable to grant an order. The Tribunal was satisfied that the conditions of section 33 had been met and that it was reasonable in the circumstances to grant the order evicting the Respondent from the property. Accordingly, the Tribunal granted the order for 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.

Nicola Irvine

Legal Member/Chair

24 November 2023

Date