



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/23/4595

Re: Property at Narvona, Townsend Terrace, Dunscore, DG2 0SZ (“the Property”)

Parties:

Mrs Claire O'Sullivan, Mr Tim O'Sullivan, Craigdarroch Arms Hotel, High Street, Moniaive, DG3 4HN (“the Applicants”)

Mr Luke James Lawrence, Mrs Emma Louise Lawrence, 2 Navona Dunscore, Dumfries, DG2 0SZ; Narvona, Townsend Terrace, Dunscore, DG2 0SZ (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

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

Background

1. The Applicants submitted an application under Rule 66 for an order to evict the Respondents from the property.
2. By decision dated 29 January 2024, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Tribunal intimated the application to the parties by letter of 12 February 2024 and advised them of the date, time and conference call details of today's CMD. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a

decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 4 March 2024.

4. On 1 March 2024, the Tribunal received written representations from the Respondents.

The case management discussion

4. The CMD took place by conference call. The First Applicant and both Respondents joined the conference call. The Applicants were represented by Mr Kenneth McLean, solicitor. The Respondents were represented by Ms Doreen Beattie of Dumfries and Galloway Citizens Advice Service. The Respondents' representative explained that the application was not opposed and there were no issues of reasonableness being relied upon by the Respondents. The Respondents are both in full time employment and they have 4 children of school age. The Respondents have been looking for alternative accommodation but have not yet identified anywhere suitable to move the family to. The local authority has advised the Respondents that they will not be treated as homeless unless and until an eviction order is granted. The Respondents representative moved for more time to be afforded to the Respondents to look for alternative accommodation. The Applicants' position is that the accommodation in which they currently live is tied to the lease of a hotel and that lease is coming to an end. The Applicants do not have dependents, but they require the property to live in and have no alternative accommodation available to them. The Applicants expect that their current accommodation will be available for a maximum of 3 months.

Findings in Fact

5. The parties entered into a short assured tenancy which commenced 1 December 2014.
6. The Applicants served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondents by recorded delivery on 11 September 2023.
7. The short assured tenancy had reached its ish.
8. Tacit relocation was not operating.
9. No further contractual tenancy is in operation.

Reason for Decision

10. The Tribunal proceeded on the basis of the documents and the submissions made at the CMD. 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 Respondents from the property.

11. The Tribunal sought to strike a balance of the respective needs of the parties. Whilst the Applicants have accommodation for up to 3 months, the Respondents do not have alternative accommodation to move to. The Tribunal exercised its discretion under Rule 16(A)(d) and delayed the execution of the order until 3 June 2024.

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.

N Irvine

Legal Member/Chair

25 March 2024

Date