



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/23/0577

Re: Property at 32 Blaven Court, Forres, Morayshire, IV36 1EH (“the Property”)

Parties:

Mr James Andrew, 16 Morlich Crescent, Nairn, Highland, IV12 4TW (“the Applicant”)

Miss Erika Liptak, 32 Blaven Court, Forres, Morayshire, IV36 1EH (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Ahsan Khan (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 lodged in advance of the CMD:

1. Application received 24 February 2023;
2. SAT commencing 12 October 2017;
3. AT5
4. Notice to Quit;
5. Section 33 Notice;
6. Confirmation of Service of Notices by Royal Mail Track and Trace on 1 November 2022;

7. Section 11 Notice and email serving on local authority dated 23 February 2023;
8. Certificate of Service of CMD Notification by Sheriff Officers dated 19 May 2023.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 22 June 2023. The Applicant did not participate but was represented by his solicitor. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate but she did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that she should attend and the Tribunal could determine the matter in absence if she did not.

The Tribunal discussed the Parties respective circumstances with the Applicant's solicitor in so far as he was aware. He informed the Tribunal that the Respondent lived in the Property alone and was a professional artist. There were currently £2,652.66 of rent arrears due. The Respondent had made some sporadic additional payments towards the arrears. There was a history of rental arrears and that was the reason the Applicant sought recovery of possession.

Having heard from the Applicant's solicitor the Tribunal then considered the eviction application before it.

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

1. The Parties let the subjects under a SAT commencing 12 October 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 1 November 2022;
4. Section 11 Notice had been served on the local authority;
5. The SAT had reached its term 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 he required possession;
9. The Respondent was in rent arrears of £2,652.66 as at the date of the CMD;
10. The Applicant required to recover possession of the Property due to frequent rental arrears.

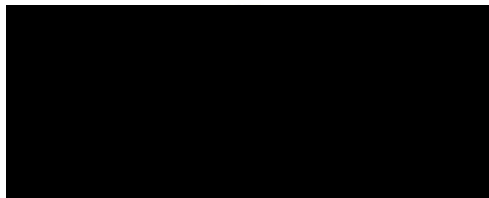
The Tribunal considered all of the evidence and submissions. The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Tribunal granted the application for eviction and recovery of possession.

The Tribunal explained to the Applicant's solicitor that the **Cost of Living (Tenant Protection)(Scotland) Act 2022** applied and that meant that the Applicant could not take steps to enforce recovery of possession until the expiry of 6 months after the grant of the order or the repeal of the Act (whichever was the sooner).

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.



Legal Member/Chair

22 June 2023

Date