



**Decision 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/23/0754

Re: Property at 28 Anderson Street, Dysart, Kirkcaldy, KY1 2XE (“the Property”)

Parties:

Ms Victoria Geig, 359 Skibo Court, Glenrothes, Fife, KY7 4RJ (“the Applicant”)

Mr Stewart Fraser, 28 Anderson Street, Dysart, Kirkcaldy, KY1 2XE (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Elaine Munroe (Ordinary Member)

Decision

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 application was dated 9th March 2023. The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. On 1st June 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 6th July 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 22nd June 2023.
3. On 5th June 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent personally. This was evidenced by Certificate of Intimation dated 5th June 2023.

Case Management Discussion

4. The Tribunal held a Case Management Discussion on 6th July 2023 at 10am by teleconferencing. The Applicant was not present but was represented by Ms Gillian Matthew, trainee solicitor, Bannatyne Kirkwood France & Co. The Respondent was present and represented himself.
5. Ms Matthew said that the Applicant wishes to sell the Property. The rent has remained at £325 per month since the start of the tenancy. The mortgage costs have now risen to £372.15 per month. The Applicant has further costs for the tenancy including letting agent fees, maintenance for the Property and insurance. All of these cost with the increased mortgage cost have meant that the Applicant can no longer afford to continue to be a landlord. This is her only property. The Applicant's own mortgage has risen from £500 to £700. In October 2022 the Applicant's husband was made redundant. This put a significant financial pressure upon the Applicant and her family. While the Applicant's husband is now in employment again it has left its impact upon the family which means that the Applicant can no longer afford to continue with the Property. Ms Matthew said that the Applicant had received a letter from Fife Council about antisocial behaviour though there was nothing further to substantiate that.
6. The Respondent strongly disputed the antisocial behaviour claims. He asserted that it had arisen from his neighbour not him. The Tribunal accepted that it was not proved and was not the centre point to the case. The Respondent said that he was not in a position to oppose an order being granted. He cannot get a private tenancy due to the high price of private rents. He believes that the price has increased because landlords are selling due to the cost of living crisis. He is waiting to hear from his local council regarding being rehoused. He has been told that he would need to be classed as homeless. The Respondent will contact his local authority again to advise of the Tribunal's decision.

Findings in Fact

7. The parties entered into a Short Assured Tenancy on 25th June 2013 until 24th December 2013 thereafter continued by tacit relocation. An AT5 was signed by both parties on the same date as the lease. The rent payments of £325 per month are due on the 25th day of each month.
8. The Housing and Property Chamber received an application on 9th March 2023.
9. The Applicant intends to sell the Property. Her mortgage costs have risen to £372.15 per month. She also has cost arising from the tenancy such as maintenance costs, insurance and letting agent fees.
10. The Respondent did not consider that he had grounds to oppose the application being granted.

11. The Tribunal did not consider that there were any grounds of reasonableness to prevent an order being granted.

Reasons for Decision

12. The Tribunal was satisfied that there were no other issues of reasonableness before them 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

13. The Applicant is entitled to an Order 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Gabrielle Miller

6th July 2023

Legal Member/Chair

Date