



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/23/0646

Re: Property at 1 (3F1) Alva Street, Edinburgh, EH2 4PH (“the Property”)

Parties:

Mrs Lucy Bissett, 16 Essex Road, Edinburgh, EH4 6LQ (“the Applicant”)

Mr Christopher Turnbull, 1 (3F1) Alva Street, Edinburgh, EH2 4PH (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for possession of the property and the removal of the respondent from the property.

Background

1. By application dated application dated 27 February 2023 and subsequently as amended on 5 May 2023 the Applicant’s representatives, Umega Limited, Edinburgh applied to the Tribunal for an order for possession and the removal of the Respondent from the property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”) in respect that the Respondent’s tenancy of the property had reached its ish. The Applicant’s representatives submitted a copy of the tenancy agreement together with a Form AT5 and Notice to Quit with proof of service and a Section 11 Notice with proof of intimation in support of the application. The Applicant’s representative also subsequently submitted a rent statement.

2. By Notice of Acceptance dated 24 April 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion ("CMD") was assigned.
3. The Applicant's representatives submitted further written representations by email dated 22 June and 5 July 2023.
4. A CMD was held by teleconference on 6 July 2023. The applicant was represented by Mrs Sarah Strachan from the Applicant's representatives. The Respondent attended in person. The Tribunal considered it had insufficient information before it to make a determination of the application and as the Respondent said he intended to clear the rent arrears then outstanding the Tribunal continued the application to a further CMD.
5. By email dated 22 September 2023 the Applicant's representatives submitted further written representations by way of an amended rent statement.
6. The Applicant's representatives submitted further written representations by emails dated 7 August and 5 October 2023.

The Case Management Discussion

7. A CMD was held by teleconference on 12 October 2023. The Applicant was represented by Mrs Sarah Strachan from the Applicant's representatives. The Respondent attended in person.
8. The Tribunal noted that the Respondent had been unable to clear the rent arrears which had risen instead to £5040.00. The Respondent advised the Tribunal that he was not opposing the order sought and thought that it was fair and reasonable that an eviction order be granted.
9. Mrs Strachan confirmed that the Applicant was seeking an order for possession as the rent arrears had continued to build up. She also explained that the Applicant's brother who lived overseas was going to use the property when he was in the country.
10. The Respondent confirmed he was looking for guidance as to when he would have to leave the property.

Findings in Fact

11. The parties entered into a Short Assured Tenancy that commenced on 1 February 2016 and endured until 31 January 2017 and from month to month thereafter.

12. The initial rent was £1200.00 per calendar month and increased to £1260.00 per month.
13. The Respondent was served with a Notice to Quit and Section 33 Notice on 15 November 2022.
14. The Respondent owes rent of £5040.00 as at 1 October 2023.
15. The Applicant intends that her brother who lives overseas will live in the property when he is in Scotland.
16. The Respondent has agreed that it is fair and reasonable that an order for possession should be granted.

Reasons for Decision

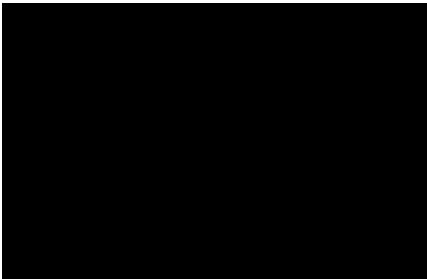
17. The Tribunal was satisfied from the written representations and documents produced together with the oral submissions made at both CMDs that the parties entered into a Short Assured Tenancy that commenced on 1 February 2016 and endured until 31 January 2017 and from month to month thereafter. The Tribunal was also satisfied that the Respondent had been properly served with a Notice to Quit and Section 33 Notice and that Edinburgh City Council had been given intimation of the proceedings by way of a Section 11 notice. It was therefore necessary for the Tribunal to consider whether it was reasonable to grant the order sought.
18. Before granting the order, the Tribunal gave the Respondent an opportunity to clear any rent arrears and maintain regular rent payments in line with his stated intentions. The Respondent was unable to clear the arrears which increased during the period. The Respondent recognised that it was time that he found somewhere else to live and told the Tribunal that he considered it was fair and reasonable that the order sought should be granted. Given the increase in the rent owed and that the Applicant wished a member of her family to be able to use the property when in the country and the fact that the Respondent was not opposing the order being granted the Tribunal determined that it was reasonable to grant the order sought.

Decision

19. The Tribunal having carefully considered the written representations, documents and oral submissions and being satisfied it had sufficient information before it to make a decision without the need for a hearing finds the Applicant entitled to an order for possession of the property and the removal of the Respondent from the property.

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

12 October 2023

Date