



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/23/2147

Re: Property at 38 Stormont Road, Scone, Perth, PH2 6NT (“the Property”)

Parties:

Mr Michael Hoyle, 190-0012 Tokyo, Tachikawa - SH1, Alebono-CHO 1-25-5, Mild Welle 302, Japan (“the Applicant”)

Ms Claire Rowan, 38 Stormont Road, Scone, Perth, PH2 6NT (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Angus Lamont (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 Applicant is seeking an order for recovery of possession in terms of section 33 of the Act. An application was received by the Housing and Property Chamber dated 29th June 2023.
2. On 31st August 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 10th October 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 21st September 2023.

3. On 4th September 2023, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent personally. This was evidenced by Certificate of Intimation dated 4th September 2023.

Case Management Discussion

4. A Case Management Discussion (“CMD”) was held on 10th October 2023 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Murray Hall, Associate Director and Mr Alan Keddie, Director, both of Premier Properties Perth. The Respondent was present and represented herself.
5. Mr Hall said that he was still seeking an order for eviction. While there are arrears on the Property that is not a ground of reasonableness that is being sought. The main reason is that the Property needs substantial repairs undertaken. Mr Keddie has been working on this part of the case. Mr Keddie explained that the Property next door is under management of his company. Dry rot was found there. It had to have extensive work to remedy the dry rot including replacement of the joists. A specialist report was undertaken on that property and it said that it is highly likely that there will be dry rot in this property which will need treatment. Mr Keddie said that all the walls will need to be stripped back to the brick work. The stairs will need to be removed as the stairs as situated on the gable end which is believed to be effected. They may need to remove the ceiling. Mr Keddie said that the Respondent has said for some time about dampness in the Property. She was initially given advice on condensation such as not drying her clothes in the house and opening windows. As it did not go away he considers that this is further support. Mr Keddie said that he does not have an exact time scale for the works to be done. As they are so substantial he is expecting it to be at least 4 – 6 months. However, he will need to contact the correct specialist workmen which could take weeks or months to obtain their services and the work could be far greater than first thought meaning that the work time will be extrapolated. It would be not possible for the Respondent to be decanted as there is no possibility of knowing when the work will be completed. Mr Keddie said that if left untreated then there would be more damage to the Property and it would be very likely that the dry rot spread to the original property.
6. The Respondent said that she has seen the situation change in the Property. There is a cupboard which is attached to an adjoining wall with the other recently treated property. She has seen a massive deterioration in the condition of the insides of that which has lead to the attic now being visible from inside the cupboard. The Respondent’s view is that this is confirmation of what Mr Keddie has said about the state of the Property. The Respondent said that she is going to be addressing the arrears and will speak to Mr Keddie about this. Her main concern is that she will not have a place to live with her two sons who are autistic. They are 19 and 21. Her 19 year old son is in full time education. She has been told that she may not get a three bedroomed property and that as a consequence her eldest child will not be able to live with her. She has been told by her local authority that once she has been evicted that her priority will

be increase meaning that she is more likely to be rehoused. She has also extended her search area.

7. The Tribunal was satisfied that it was appropriate to grant an order for eviction and that there were no issues of reasonableness before them to prevent an order being granted.

Findings in Fact

8. The parties entered into a Short Assured Tenancy on 13th August 2011 until 13th August 2011 and on a month to month basis thereafter. The lease was signed on 12th February 2011. An AT5 was signed by both parties on the same date as the lease. The rent payments of £695 and due by the 12th day of each month.
9. The Applicant served a Notice to Quit and a Section 33 notice on the Respondent. Both were dated 5th April 2023.
10. The Housing and Property Chamber received an application date 29th June 2023.
11. There are significant repairs that need to be undertaken in the Property for the preservation of the Property and the safety of the Respondent. This is going to take several months. It would be inappropriate to decant the Respondent as it unknown how long the repairs will take.
12. The Respondent has seen the damage that the dry rot is causing and is not in a position to oppose an order being granted.
13. There were no issues of reasonableness before the Tribunal that it considered would prevent an order for eviction being granted.

Reasons for Decision

14. 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

15. The Applicant is entitled to for an Order of 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.



11th October 2023

Legal Member/Chair

Date