

ANGUS COUNCIL

COMMUNITIES COMMITTEE – 15 NOVEMBER 2016

RIGHT TO BUY - REQUIREMENT TO DISREGARD A BREAK IN CONTINUOUS OCCUPATION

BACKGROUND

The Housing (Scotland) Act 2010 came into force on 1 March 2011, and removed the Right to Buy for tenants taking up a Scottish Secure Tenancy for the first time, or with some exceptions, those who returned to the social rented sector after a break.

One example in which a break in continuous occupation requires to be disregarded is where a landlord has brought the tenancy to an end, and repossessed the property because they wrongly or unreasonably believed that the tenant was not occupying it, and the court orders the landlord to provide the tenant with alternative accommodation.

CURRENT POSITION

An application to purchase a 2 apartment, first floor flat in Carnoustie was received on 28 July 2016. The tenancy of this property began on 25 July 2016.

The applicant previously held the tenancy of another property in Carnoustie between 22 November 1999 and 3 January 2016, when the tenancy was brought to an end as the Council believed that the tenant was not occupying the property as his principal home.

The tenant raised an action in the Sheriff Court, disputing the Council's decision to end the tenancy. The action was not defended as the correct procedures to end the tenancy were not followed.

The tenant was then allocated the first floor, the subject of the Right to Buy application.

ACTION TAKEN

As the current legislation sets out the requirement to disregard the break in continuous occupation quite specifically, the application to purchase was valid, as was processed accordingly. The discount entitlement did not however take into account the period between 4 January 2016 and 25 July 2016, when the applicant did not occupy a relevant property.

FINANCIAL IMPLICATIONS

The financial implications are not known at present as the property has not yet been valued. The applicant has accumulated a total of 16 complete years of tenancy and therefore qualifies for the maximum discount of 70% of the valuation of the property.

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