



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

Reference number: FTS/HPC/EV/20/1063

Order granted on 19 August 2020

Re: Property at 31 Springfield Road, Kinross, Kinross-shire KY13 8BT (“the Property”)

Parties:

Lynn Bennet residing at 1 Reid Crescent, Milnathort, Kinross-shire KY13 9TB (“the Applicant”)

and

Linda Smith, residing at 31 Springfield Road, Kinross, Kinross-shire KY13 8BT (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988.

Background

The Applicant sought recovery of possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to Quit and s.33 notice, both served on 7 January 2020, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is joint heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 11.30am on 19 August 2020. Both the Applicant and the respondent were present. Neither was represented.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short-assured tenancy Agreement for the Property dated 6 December 2008. The lease initially ran from 6 December 2018 to 7 June 2009.
2. The rent in terms of the Tenancy Agreement was £450 per month.
3. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
4. A notice to quit and a s.33 notice were served on the Respondent on 7 January 2020. The tenancy is a short-assured tenancy and the respondent received the notice to quit and the s.33 notice timeously. The s.33 notice brought the tenancy to an end on 7 April 2020.
5. The Applicant sought recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988 because the short-assured tenancy had been brought to an end on 7 April 2020 by the service of the s.33 notice.
6. The respondent offers no resistance to this application and confirmed that she does not oppose the application.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The tenancy was a short-assured tenancy. Correct notice was given which brought the short-assured tenancy to an end on 7 April 2020. The basis for possession set out in s.33 of the 1988 Act is established. The respondent offers no defence to the application. The finite time for occupancy of the property as a short-assured tenancy has come to an end. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for 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.

Paul Doyle

19 August 2020

Legal Member