



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 (Act)

Chamber Ref: FTS/HPC/EV/19/1608

Re: Property at 5A Friars Croft, Dunbar, EH42 1BP (“the Property”)

Parties:

Mr Colin Tucker, 36 Moray Avenue, Dunbar, EH41 1QG (“the Applicant”)

Miss Louise Hanscombe, 5A Friars Croft, Dunbar, EH42 1BP (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction and recovery of possession be granted.

Background

This is an application for eviction and recovery of possession of the Property following upon termination of a Short Assured Tenancy (**SAT**) under section 33 of the Act and Rule 66 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (Regulations)*.

The Tribunal had regard to the following documents:

1. Application received 28 May 2019;
2. SAT commencing 25 October 2017;
3. AT5 dated 24 October 2017;
4. Notice to Quit dated 21 February 2019;
5. Section 33 Notice dated 21 February 2019;
6. Section 11 Notice to East Lothian Council;

7. Certificate of Service of Section 33 Notice and Notice to Quit by Sheriff Officers dated 23 February 2019;
8. Email from Respondent dated 26 August 2019 confirming receipt of CMD Notification.

Case Management Discussion (CMD)

The case called for a CMD on 4 September 2019. The Applicant did not appear but was represented by Ms Hill, Solicitor. The Respondent did not appear and was not represented. The Tribunal delayed the commencement of proceedings to see if the Respondent would appear but she did not.

The Tribunal were satisfied that the Respondent had notification of the CMD and the fact that the Tribunal could proceed in her absence and determine the matter if it had sufficient information to do so and the procedure was fair. The Respondent had emailed the Tribunal Administration on 26 August 2019 and confirmed her knowledge of the notification.

The Tribunal accordingly decided to proceed with the CMD.

Ms Hill invited the Tribunal to grant the order sought.

The Tribunal considered the documentary evidence and made the following findings in fact:

1. The Parties entered in to an SAT commencing 25 October 2017;
2. The SAT had been validly terminated by Notice to Quit on 26 April 2019;
3. Section 33 Notice had been validly served on 23 February 2019;
4. Section 11 Notification had been made to East Lothian Council;
5. Tacit relocation was no longer operating in respect of the SAT.

The Tribunal then considered section 33 of the Act. As the SAT had been validly terminated and tacit relocation no longer operating the Tribunal had no discretion other than to grant the order sought.

The Tribunal were satisfied that it had sufficient information to determine the matter at the CMD and the procedure had been fair.

The Tribunal granted the order for recovery of possession and eviction.

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.

Alan Strain

Legal Member/Chair

Date

4 September 2019