



Decision 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/19/3497

Re: Property at 1 Catherines Walk, Blantyre, G72 0QG (“the Property”)

Parties:

Mr Stephen Quinn, 116 Andrew Paton Way, Hamilton, ML3 0GB (“the Applicant”)

Mr James Martin Quinn, 1 Catherines Walk, Blantyre, G72 0QG (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

Background

By application, received by the Tribunal on 31 October 2019, the Applicant sought an Order for Possession under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”)

The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties commencing on 1 March 2012 and, if not brought to an end by either Party on 1 August 2013, continuing thereafter on a monthly basis until terminated by either Party giving no less than two months’ notice to the other Party, and a Form AT5 Notice dated 1 March 2012. The Applicant also provided the Tribunal with copies of a Notice given under Section 33 of the 1988 Act (a Form AT6 Notice) and a Notice to Quit, both dated 26 June 2019, with proof of service of both Notices by sheriff officer on 28 June 2019. The Notice to Quit and Form AT6 Notice both required the Respondent to vacate the Property by 1 September 2019.

On 31 December 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 21 January 2020. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on the morning of 31 January 2020. Neither Party was present or represented, but the Tribunal considered that it had sufficient information before it to determine the application without a Hearing and that the procedure had been fair, with the requirements of notice having been met.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 33 of the 1988 Act states that the Tribunal shall make an Order for Possession of a house let under a Short Assured Tenancy if it is satisfied that the tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given to the tenant notice that he requires possession of the house.

The Tribunal was satisfied that the tenancy was a Short Assured Tenancy, that it had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence between the Parties and that the Notice that the Applicant required possession of the Property (the Form AT6 Notice) had been given. Accordingly, the requirements of Section 33 of the 1988 Act had been met and the Tribunal was bound to make an Order for Possession of the Property.

Decision

The Tribunal determined that the application should be decided without a Hearing and made an Order for Possession of 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.



Legal Member/Chair

31 January 2020

Date