

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/4085

Re: Property at Chain Bridge Cottage, Annay Road, Melrose, TD6 9LJ (“the Property”)

Parties:

Mr Ian Robert Clark, Ms Anna Halliday, Ms Sarah Jane Jacobs, Princes Exchange, 1 Earl Grey Street Edinburgh, EH3 9EE, as Executor of both the late Betty Brown of Greenyards St Marys Road Melrose, TD6 9LJ and the late Alison Sylvia Brown; 57 Braid Avenue, Edinburgh, EH10 6EB, as Executor of both the late Betty Brown of Greenyards St Marys Road Melrose, TD6 9LJ and the late Alison Sylvia Brown; 16 Mansionhouse Road, Edinburgh, EH9 1TZ, as Executor of both the late Betty Brown of Greenyards St Marys Road Melrose, TD6 9LJ and the late Alison Sylvia Brown (“the Applicant”)

Mr Thomas Prentice, Chain Bridge Cottage, Annay Road, Melrose, TD6 9LJ (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member)

Decision

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

Background

The applicants applied to the First Tier Tribunal under Rule 66 in terms of Section 33 of the Housing (Scotland) 1988 Act for recovery of possession of the property at Chain Bridge Cottage, Annay Rose, Melrose, TD6 9L. The application was dated 19 December 2019. Accompanying the application were the following:

- (a) Copy short assured tenancy dated 24 November 2017.**
- (b) Copy AT5 dated 24 November 2017.**
- (c) Copy Notice to Quit served 8 October 2019.**
- (d) Copy Section 33(1)(d) Notice served on 8 October 2019.**
- (e) Copy certificate of execution of Notice to Quit by Sheriff Officers dated 8 October 2019.**
- (f) Copy letter to Scottish Borders Council dated 19 December 2019 under Section 11 of the Homelessness (Scotland) Act 2003.**

The application was served by Sheriff Officers on the Respondent on 5 February 2020.

No written representations were received following upon intimation of the application upon the Respondent.

Case Management Discussion

At the case management discussion Mr Bauchop solicitor appeared on behalf of the applicants. The Respondent attended.

Findings in fact

- 1. The applicants entered into a short assured tenancy on 24 November 2017 for the Lease of the property at Chain Bridge Cottage, Annay Road, Melrose, TD6 9LJ.**
- 2. An AT5 was served upon the Respondent dated 24 November 2017 and acknowledged by the Respondent on 30 November 2017.**
- 3. A Notice to Quit was served by Sheriff Officers on the Respondent dated 8 October 2019.**
- 4. A Section 11 Notice was prepared and intimated to Borders Council on 19 December 2019.**
- 5. The application was served on the Respondent and no written representations have been received.**

Reasons for decision

All the paperwork was in order. The applicants' solicitor spoke to the documentation. The Respondent was present and acknowledged that all the paper work had been served correctly. He understood that the applicant could remove him from the property.

The Respondent indicated that he did not want legal advice. He said he had been a tenant of the property for 25 years. He was also the tenant of the farm under a separate lease. He believed that the applicant wished to sell the property and

the farm. He wanted to remain in the property after any sale. He accepted that this did not constitute a defence to the application. He conceded that an order of possession was to be made.

Accordingly an order for possession of the property was granted.

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.

Mark Thorley

Legal Member/Chair

6th March 2020

Date