



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/19/3624

Re: Property at 24 Park Crescent, Strathaven, ML10 6NH (“the Property”)

Parties:

Mr Scott Brownlie, C/O Daniel Brownlie, The Loudoun Hill Inn, Strathaven Road, Darvel (“the Applicant”)

Mr Martin Luke Bradbury, Ms Wendy Bradbury or Cooper, 24 Park Crescent, Strathaven, ML10 6NH (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision

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 under Rule 66 of the Tribunal Procedure Rules and section 33 of the Act following on termination of a Short Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents:

1. Application received 8 November 2019;
2. SAT commencing 1 June 2017;
3. AT5 dated 1 June 2017;
4. Notices to Quit dated 8 August 2019;
5. AT6s dated 8 August 2019;
6. Section 33 Notices dated 8 August 2019;
7. Royal Mail track and trace;

8. Section 11 Notice to the Local Authority.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 29 January 2020. The Applicant participated and was represented by his Solicitor. The Respondents participated.

The Applicant's Solicitor moved the Tribunal to grant the order sought given that the paperwork was in order.

The Respondents disputed that the Applicant was entitled to be the Landlord of the Property.

The Tribunal ascertained that the Applicant was not the owner of the Property but was authorised by the owner to act as the Landlord and is the registered Landlord for the Property.

The Respondents accepted that they had entered in to the SAT with the Applicant.

The Respondents denied receipt of the section 33 and Notices to Quit. The Tribunal referred to the Royal Mail Track and Trace receipts which confirm signed for delivery. The Tribunal considered these as conclusive evidence that the Notices had been served and signed for.

The Tribunal considered the documentation and made the following findings in fact:

1. The Parties entered in to an SAT commencing 1 June 2017;
2. Notice to Quit was validly served on both Respondents dated 8 August 2019;
3. Section 33 Notices were validly served on both Respondents dated 8 August 2019;
4. Both Notices to Quit and Section 33 Notices were delivered by recorded delivery and signed for as vouched for by the track and trace receipts;
5. AT6s were validly served on both Respondents dated 8 August 2019;
6. Section 11 Notice had been issued to the Local Authority;
7. The SAT had been validly terminated with effect from 30 October 2019;
8. Tacit relocation was no longer operating;
9. The Respondents remained in occupation of the Property.

Having made these findings in fact the Tribunal then considered the terms of section 33. The requirements for granting an order for eviction and recovery of possession were satisfied.

The Tribunal accordingly determined that it could decide the matter at the CMD and granted the order.

The Applicant's Solicitor moved for expenses under Rule 40. This application was refused by the Tribunal on the basis that there had been no unreasonable conduct by the Respondents. The fact that they had not removed and put the Applicant to the cost of raising eviction proceedings did not constitute unreasonable conduct.

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.

A Strain

29 January 2020

Legal Member/Chair

Date