



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/19/1774

Re: Property at 65 Watson Street, Larkhall, ML9 1BT (“the Property”)

Parties:

Mr Lee Drummond, 2 Marshall Place, Luncarty, Perth, PH1 2UU (“the Applicant”)

Miss Julie Dunsmore, 65 Watson Street, Larkhall, ML9 1BT (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property at 65 Watson Street Larkhall ML9 1BT be made in terms of s33 of the Housing (Scotland) Act 1988.

This is a case management discussion ‘CMD’ in connection with an application in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s33 of the Housing (Scotland) Act 1988, ‘the Act’, for recovery of possession of the property at 65 Watson Street Larkhall ML9 1BT. The application was made by Mr Lee Drummond and he appointed Mr Barry Munro of GBS Lets LTD as his representative.

The tribunal had before it the following copy documents:

1. Application dated 6 June 2019 and received by the Tribunal on 7 June 2019.
2. AT5 dated 30 October 2017.
3. Notice to quit dated 26 March 2018.
4. S33 notice dated 26 March 2018.
5. S11 notice.

6. Proof of posting dated 26 March 2018.
7. Land certificate.
8. Sheriff Officer's execution of service of the CMD papers and application dated 3 July 2019.

The applicant was represented at the hearing by Mr Munro of GBSs LTD. The respondent did not attend and was not represented. The tribunal had sight of item 8 above and was satisfied that the respondent had received appropriate notice in terms of rule 24. The tribunal proceeded with the CMD in terms of rule 29.

Preliminary matters

The tribunal noted that the proof of posting slip lodged was difficult to read. Mr Munro produced a better copy and the postcode of the property could clearly be read. Mr Munro also confirmed that items 3 and 4 above were both posted to the respondent on 26 March 2018 in the one envelope.

Mr Munro confirmed that the s11 letter was sent by post to the local authority on 6 June 2019, the same day that the application was lodged and that this is in accordance with his company's usual practice.

Mr Munro advised that the reason the notice to quit and s33 notice were served over a year ago was because there were rent arrears for the property and the applicant was giving the respondent the opportunity to clear the arrears.

Findings in fact

1. The applicant is the owner of the property.
2. The respondent received an AT5 on 30 October 2017, before the execution of the tenancy agreement.
3. The applicant entered into a short assured tenancy with the respondent on 30 October 2017 for let of the property for the initial period of 30 October 2017 until 29 April 2018 and month to month thereafter.
4. The applicant served a valid notice to quit and s33 notice on the respondent on 26 March 2018 with an ish date of 29 May 2018.
5. The applicant's agents have served the appropriate notice on the local authority in terms of s11 of the Homelessness etc (Scotland) Act 2003.
6. The short assured tenancy has reached its ish.
7. Tacit relocation is not operating.
8. No further contractual tenancy is in existence.

Reasons

This was an undefended application for possession on the expiry of a short assured tenancy. The tribunal was satisfied that it had sufficient information before it to make a decision and the procedure has been fair. The tribunal accordingly granted the mandatory order sought.

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.

Lesley Ward

Lesley A Ward Legal Member

6 August 2019

Date