



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/20/1388

Re: Property at 8 Arbaille, Leven, Fife, KY8 5AS (“the Property”)

Parties:

Mr Allan Ballantyne, c/o Premier Rentals Fife Ltd, 189 Commercial Street, Kirkcaldy, KY1 2NS (“the Applicant”)

Miss Rhona Hunter, 8 Arbaille, Leven, Fife, KY8 5AS (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision

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 22 June 2020, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the Act”). The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties commencing on 13 March 2015 and, if not terminated on 14 September 2015, continuing thereafter until terminated by two months’ notice given by the landlord or by one month’s notice given by the tenant, a Form AT5 Notice dated 13 March 2015, a Notice given under Section 33 of the Act, dated 23 March 2020 and requiring the Respondent to remove from the Property on 14 June 2020, a Notice to Quit dated 23 March 2020, also requiring the Respondent to remove from the Property on or before 14 June 2020 and proof of posting, by recorded delivery post on 23 March 2020, of the Section 33 Notice and the Notice to Quit.

On 3 August 2020, the Tribunal advised the Parties of the date and time for a Case Management Discussion and the Respondent was invited to make written

representations by 17 August 202. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by way of a telephone conference call on the afternoon of 24 August 2020. The Applicant was represented by Kirstie Donnelly of Bannatyne Kirkwood France & Co, solicitors, Glasgow. The Respondent participated in the Case Management Discussion. The Applicant's representative asked the Tribunal to make an Order for Possession without a Hearing.

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 it required to enable it to decide the application without a Hearing.

Section 33 of the Act states that the Tribunal shall make an Order for possession of a house let on 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 stating that he requires possession of the house.

The Tribunal was satisfied that the Short Assured Tenancy had reached its end, that, as a result of service of the Notice to Quit, tacit relocation was not operating, that no further contractual tenancy was for the time being in existence and that the Applicant had given to the Respondent Notice that he required possession of the Property. Accordingly, the requirements of Section 33 of the Act had been met and the Tribunal was bound to make an Order for Possession. The Tribunal noted that the Notice to Quit was dated prior to the coming into force of The Coronavirus (Scotland) No.1 Act 2020 on 7 April 2020.

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.

G Clark

Legal Member/Chair

24 August 2020
Date