



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33(1) of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/20/1043

Re: Property at Flat D, 10 Jasmine Place, Aberdeen, AB24 5LB (“the Property”)

Parties:

Central Lets Limited, 46 Dee Street, Aberdeen, AB11 6DS (“the Applicant”)

Mr Raymond Hutcheon, Flat D, 10 Jasmine Place, Aberdeen, AB24 5LB (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision

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

Background

1. This is an application dated 6th April 2020, made in terms of Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) and Section 33 of the Housing (Scotland) Act 1988 (“the Act”). The Applicant is seeking recovery of possession on termination of a Short Assured Tenancy that commenced on 15th July 2012 with the initial term until 31st January 2013 and monthly thereafter. The Applicant lodged a copy of the tenancy agreement between the parties, together with copy Form AT5 dated 14th July 2012, copy Notice to Quit and Section 33 Notice dated and served on 29th January 2020, and copy Section 11 Notice submitted on 4th April 2020.
2. Sheriff Officers served the application and notification on the Respondent on 14th July 2020.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by teleconference call on 12th August 2020. The Applicant was not in attendance and was represented by Mr Porter. The Respondent was in attendance.
4. Mr Porter moved the Tribunal to grant the order sought as all the requisite notices had been served correctly.
5. The Respondent said that the Property was in a poor state of repair, listing several issues of concern. It was his understanding that the Tribunal could consider the state of repair of the Property.
6. The Tribunal informed the Respondent that, provided the requisite notices had been served correctly, the Tribunal had no discretion over whether or not to grant the order, and that it could not take into account the state of the Property. The Respondent was advised to take advice on this matter from an appropriate advice agency.

Findings in Fact

7.
 - (1) The parties entered into a Short Assured Tenancy in respect of the Property on 15th July 2012 with the initial term until 31st January 2013 and monthly thereafter.
 - (2) Notice to Quit and Section 33 Notice dated on 29th January 2020 were served on the Respondent by Recorded Delivery.
 - (3) The Short Assured Tenancy has reached its ish date.
 - (4) The contractual tenancy terminated on 31st March 2020.
 - (5) Tacit relocation is not in operation.
 - (6) The Applicant has given the Respondent notice that they require possession of the Property.

Reasons for Decision

8. Section 33 of the Act provides that the Tribunal shall make an order for possession if satisfied that the short assured tenancy has reached its finish and that tacit relocation is not operating. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that they require possession of the Property. In the circumstances, the Tribunal must grant the order sought.

Decision

9. An order for possession of the Property is granted in favour of the Applicant.

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.

Helen Forbes

Legal Member/Chair

12th August 2020
Date