

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

Reference number: FTS/HPC/EV/21/2594

Order granted on 17 February 2022

Property: 83 Beech Place, Livingston, West Lothian, EH54 6RD

Parties:

Adrian Kay, residing at 54 Chuckethall Road, Livingston, West Lothian EH54 8FB (“the Applicant”)

Debbie Johnston residing at 83 Beech Place, Livingston, West Lothian, EH54 6RD (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)
Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988.

Background

The Applicant sought recovery of possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, an AT5, a Notice to Quit and s.33 notice, with proof that both were served on 26 May 2021, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is joint heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 10am on 17 February 2022. Both parties were present. The applicant was accompanied by Shirley Hepworth from Almond Valley Property Centre. The respondent was unrepresented.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short-assured tenancy Agreement for the Property dated 2 February 2015. The lease initially ran for 6 months from 2 February 2015, and then from month to month thereafter.
2. The rent in terms of the Tenancy Agreement was £583.00 per month.
3. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
4. A notice to quit and a s.33 notice were served on the Respondent on 26 May 2021. The tenancy is a short-assured tenancy, and the respondent received the notice to quit and the s.33 notice timeously. The s.33 notice brought the tenancy to an end on 2 December 2021.
5. The Applicant sought recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988 because the short-assured tenancy had been brought to an end on 2 December 2021 by the service of the s.33 notice.
6. The respondent offers no resistance to this application. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.
7. The respondent has no competent answer to the application for repossession.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The tenancy was a short-assured tenancy. Correct notice was given which brought the short-assured tenancy to an end on 2 December 2021. The basis for possession set out in s.33 of the 1988 Act is established. The respondent offers no defence to the application. The finite time for occupancy of the property as a short-assured tenancy has come to an end. The test of reasonableness was met. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession.

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.

P. Doyle

17 February 2022

Legal Member