



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/22/4181

Re: Property at 1 Limefield Crescent, Boghall, Bathgate, EH48 1RG (“the Property”)

Parties:

Miss Janice Kerr Bennie, 6 Easterlongridge Crofts, Longridge, West Lothian, EH47 8AA (“the Applicant”)

Kelly McKay, Mr Andrew Gold, 1 Limefield Crescent, Boghall, Bathgate, EH48 1RG; 1 Limefield Crescent, Boghall, Bathgate, EH48 1RG (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted against the respondents

Introduction

1. This application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order.
2. Intimation of the application and the Case Management Discussion (CMD) was effected upon the respondents by Sheriff Officers on 6 February 2023.
3. The CMD took place by teleconference on 8 March 2023 at 2.00 pm. The applicant was represented by Mr David Gray of Gilson Gray Solicitors. The respondents failed to participate in the hearing. There was no known barrier to them doing so.

Findings and Reasons

4. The property is 1 Limefield Crescent, Boghall, Bathgate EH48 1RG. The applicant is Miss Janice Kerr Benny. She is the heritable proprietor and registered landlord of the property. The respondents are Ms Kelly McKay and Mr Andrew Gold who are the tenants.
5. The parties entered into a short assured tenancy which commenced on 30 October 2011. An AT5 was served timeously in advance of the tenancy being created.
6. On 29 July 2022 the applicant served upon the respondents a Notice to Quit. In the terms of the said Notice to Quit, the applicant gave notice to the respondents that they would require to remove from the property on or before 30 October 2022, being an ish date. Further, on 29 July 2022 the applicant served upon the respondents Notice under Section 33(1)(d) of the Housing (Scotland) 1988 stating that possession was required of the property as at 30 October 2022. Sufficient notice was provided.
7. The short assured tenancy between the parties reached its ish as at 30 October 2022. Tacit relocation is not operating. No further contractual tenancy is in existence. The applicant has complied with the terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.
8. The tribunal proceeded to consider the issue of reasonableness.
9. The respondents have not opposed the application. At the time that the tenancy agreement was entered into the parties proceeded on the basis that only the required notice required to be given to bring the tenancy to an end.
10. The applicant has served a valid Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003. In the event of an eviction order being granted the local authority has an obligation to make alternative accommodation available for the respondents.
11. Little is known regarding the respondents. They are not known to have any dependents. They have no known disabilities or other vulnerabilities.
12. The tribunal having weighed up the whole circumstances found that the making of the eviction order sought was reasonable.

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.



8 March 2023

Legal Member/Chair

Date