



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/19/2439

Re: Property at G/R 59 Provost Road, Dundee, DD3 8AG (“the Property”)

Parties:

Ms Natalie Stewart, c/o 17 Crescent Lane, Dundee, DD4 6PD (“the Applicant”)

Mr William Dowie, Ms Linda Mitchell, G/R 59 Provost Road, Dundee, DD3 8AG (“the Respondent”)

Tribunal Members:

Ruth O’Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for repossession against the Respondents

Background

- 1 By application dated 5th August 2019 the Applicant sought an order for repossession against the Respondents.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds to reject the application. A Case Management Discussion was therefore assigned for 10th October 2019.
- 3 The application paperwork together with notification of the Case Management Discussion was served on the Respondents by Sheriff Officers on 3rd September 2019.

The Case Management Discussion

- 4 The Case Management Discussion took place on 10th October 2019. Tanya Royle of Bailie Shepard Solicitors appeared on behalf of the Applicant. The Respondents did not attend nor were they represented.
- 5 Ms Royle explained that Mr Dowie was still in the property but was seeking local authority accommodation. The order was required in order to progress this for him. She further advised that Ms Mitchell was no longer in the property however she had never formerly terminated her interest in the tenancy and was still named on the lease.

Findings in Fact and Law

- 6 The parties entered into a Tenancy Agreement dated 1st March 2016.
- 7 The tenancy was a Short Assured Tenancy as defined by section 33 of the Housing (Scotland) Act 1988.
- 8 The Respondents were served with a Notice to Quit terminating the tenancy as at 31st July 2019 and Notice under section 33(1)(d) of the Housing (Scotland) Act 1988 informing them that the Applicant required possession of the property as at that date. Both Notices were served by Sheriff Officers on 29th May 2019.
- 9 The Short Assured Tenancy has reached its end as at 31st July 2019. Tacit relocation is not operation. There is no further contractual tenancy in existence between the parties.
- 10 The provisions of section 33 of the Housing (Scotland) Act 1988 have been met.

Reasons for Decision

- 11 The Tribunal was satisfied that it was able to make a decision at the Case Management Discussion and that to do so would not be prejudicial to the interests of the parties. The Tribunal noted that both Respondents had received service of the application paperwork by Sheriff Officers and in respect of a related case (FTS/HPC/CV/19/2441) the First Named Respondent had consulted Dundee North Law Centre and had submitted a response by way of a time to pay application. The Tribunal was therefore satisfied that it could proceed to determine the application at the Case Management Discussion.
- 12 The Applicant sought recovery of possession under section 33 of the Housing (Scotland) Act 1988 which provides that the Tribunal must order repossession in the following circumstances:-

- (i) Where the tenancy has reached its end;
- (ii) Tacit relocation is not operating;
- (iii) No further contractual tenancy is in existence; and
- (iv) The tenants have been given at least two months notice that the landlord requires repossession of the house.

13 The Tribunal accepted based on its findings in fact that the provisions of section 33 had been met. The Respondents had not sought to dispute any of the facts stated by the Applicant in the application paperwork and the Tribunal therefore accepted the position put forward by her representative. The Tribunal was therefore obliged to make an order for repossession against the Respondents.

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.

Ruth O'Hare

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Legal Member/Chair

10/10/19

Date