



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/24/0480

Order granted on 19 June 2024.

Re: Property at 31 Robertson Road, Cupar, Fife, KY15 5YR (“the Property”)

Parties:

Mr Richard Stephen, residing at 52 Rodd Road, Dundee, DD4 7DR (“the Applicant”)

Frank Bell and Clare Jones, residing at 31 Robertson Road, Cupar, Fife, KY15 5YR (“the Respondent”)

Tribunal Members:

**Paul Doyle (Legal Member)
Ahsan Khan (Ordinary member)**

Decision (in absence of the Respondent)

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 Applicant had lodged with the Tribunal Form E dated 29/01/2024. The documents produced were a Tenancy Agreement, a Notice to Quit and s.33 notice, both served on 18 October 2023, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. An extract search sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 2pm on 19 June 2024. The Applicant was represented by David Wilkie of The Property Management Company. Both respondents were present, neither of them was represented.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondents entered into a short-assured tenancy Agreement for the Property dated 23/01/2015. The lease initially ran from 23/01/2015 to 23/07/2015.
2. The rent in terms of the Tenancy Agreement was £700 per month. On 23/07/2023 the rental increased to £950 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 Respondents on 18/10/2023. The tenancy is a short-assured tenancy, and the respondents received the notice to quit and the s.33 notice timeously. The s.33 notice brought the tenancy to an end on 23/01/2024.
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 23/01/2024 by the service of the s.33 notice.
6. The respondents offer 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 respondents have 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 23/01/2024. The basis for possession set out in s.33 of the 1988 Act is established. The respondents offer no defence to the application. The finite time for occupancy of the property as a

short-assured tenancy has come to an end. 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.

Paul Doyle

Legal Member

19 June 2024