



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/24/2469

Re: Property at Blairinnie Cottage, Blairinnie Farm, Parton, Castle Douglas, DG7 3BJ (“the Property”)

Parties:

Mr Oscar G. H. Yerburch, Barwhillanty Estate, Parton, Castle Douglas, DG7 3NS (“the Applicant”)

Mr John Rawlinson, Blairinnie Cottage, Blairinnie Farm, Parton, Castle Douglas, DG7 3BJ (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Angus Lamont (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order with the provision that the Order may not be enforced until 4 January 2025.

Background

[2] The Applicant seeks an Eviction Order under Section 33 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement; the relevant notice under Section 33 of the Act; the relevant notice to quit; the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 and proof of service.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 4 November 2024. The Applicant was represented by their solicitor, Mr Adam Turnbull. The Respondent was also personally present. The Respondent had submitted written representations in advance dated 24 October 2024 providing information about the Respondent's own personal circumstances. When the CMD commenced, the Respondent confirmed that he did not oppose the order sought being granted and that actually he himself wished to find a more appropriate property. He had been told however by his local authority that he would have to obtain an Eviction Order before he could be reaccommodated.

[4] The Tribunal was addressed on the Application by Mr Turnbull. The Tribunal carefully considered the reasonableness or otherwise of granting the Application. Having done so, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The Applicant let the Property to the Respondent by virtue of a Short-Assured Tenancy within the meaning of the Act;*
- II. *The Applicant competently ended the tenancy by competently serving a notice under Section 33 of the Act and a notice to quit;*
- III. *The Applicant has served the requisite notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003;*
- IV. *The Respondent requires substantial upgrades and is currently no longer appropriate for the Respondent's health conditions.*

Reasons for Decision

[5] Having made the above findings in fact, the Tribunal found that the tenancy had been validly ended under Section 33 of the Act and that it was reasonable to make an Eviction Order. The Tribunal therefore granted the Application with the provision that the Order may not be enforced until 4 January 2025. The Tribunal thought it reasonable to allow the Respondent to remain in the Property over the Christmas period to try and minimise any inconvenience.

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.

Andrew McLaughlin

Legal Member/Chair

4 November 2024.

Date