

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/0103

Re: Flat 2/1, 427 Hawthorn Street, Glasgow, G22 6EN (“the property”)

Parties:

Angel Investments (Scotland) Ltd, 24 Fairley Street, Glasgow G51 2SN (“the applicants”)

Ms Carol Bridges, Flat 2/1, 427 Hawthorn Street, Glasgow, G22 6EN (“the respondent”)

Tribunal Member:

Adrian Stalker (Legal Member)

Decision (in absence of the respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the requirements of section 33(1) of the Housing (Scotland) Act 1988 were met, and therefore, the Tribunal granted an order for recovery of possession of the property in favour of the applicants.

Background

1. In November 2016, the applicants let the property to the respondent, under a short assured tenancy. The parties entered into a written tenancy agreement. This states, in clause 1, that the tenancy is to run “for a period of 6 months that is from 14/11/2016 to 13/05/2017 and thereafter for periods of one month at a time until terminated in accordance with clause 11 hereof, or any other due process of law.” The parties signed the tenancy agreement on 14 November 2016.

2. By applications dated 11 January 2019, the Applicant sought an order for recovery of possession under section 33 of the Housing (Scotland) Act 1988 (“the Act”), and an order for payment of £4,692.64, being rent arrears. The rent arrears application is

FTS/HPC/CV/19/0117. Reference is made the Tribunal's decision in relation to that case, also dated 11 March 2019.

3. On 28 January 2019, notice of acceptance was granted by a legal member. A Case Management Discussion ("CMD") was fixed.

The CMD

4. The CMD took place at 2pm on 11 March 2019, at the Glasgow Tribunals Centre, Room 112, 20 York Street, Glasgow. Miss Caldwell, solicitor, of Messrs TC Young, solicitors for the applicants, appeared on their behalf. The Respondent did not appear, and was not represented. She had not made any representations to the Tribunal, in advance of the CMD.

5. Under rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. Miss Caldwell asked the Tribunal to grant an order for recovery of possession, under section 33 of the Act.

Findings in fact, and in fact and law; reasons for decision

6. Along with the application, the applicants had produced copies of: the tenancy agreement; a notice to quit; a section 33(1)(d) notice; a sheriff officers' certificate of execution service of the notice to quit and section 33 notice, indicating that service took place on 27 August 2018; and notice to the local authority (under section 19A of the Act), sent by email to Glasgow City Council on 7 January 2019.

7. The Tribunal was satisfied that these notices were in order. In particular, the notice to quit contained the requisite information, and bore to take effect on 13 November 2018, an ish of the tenancy, which was more than 40 days after service of the notice to quit was effected. The notice under section 33(1)(d) confirmed that the applicants required possession of the property, on 13 November 2018, more than 2 months after service of the notice was effected. Miss Caldwell confirmed that there was no other contractual tenancy in existence.

8. Accordingly, the Tribunal was satisfied that: (a) the parties' tenancy had reached its ish; (b) the tenancy had been terminated on 13 November 2018 and tacit relocation was not operating; (c) there was no other contractual tenancy between the parties in existence; (d) notice had been given under section 33(1)(d) of the Act; (e) notice had also been given the local authority under section 19A of the Act.

9. The requirements for an order for possession under section 33(1) are met. Accordingly, the Tribunal is required to grant an order for possession under that provision.

Decision

10. The Tribunal accordingly granted an order for possession under section 33 of the 1988 Act.

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.

Mr A Stalker

Legal Member

11/3/19

Date