



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 (Act)

Chamber Ref: FTS/HPC/EV/20/1212

Re: Property at 8 Pentland Crescent, Larkhall, ML9 1UR (“the Property”)

Parties:

Mrs Razia Rashid, 26 Union Street, Larkhall, ML9 1DR (“the Applicant”)

Ms Melanie Cuthbertson, 8 Pentland Crescent, Larkhall, ML9 1UR (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction and recovery of possession be granted.

Background

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents:

1. Application received 26 May 2020;
2. AT5 dated 4 August 2014;
3. SAT commencing 4 August 2014;
4. Section 33 Notice dated 20 December 2019;
5. Notice to Quit dated 20 December 2019;
6. Section 11 Notice to local authority;
7. Email serving Section 11 Notice;
8. Royal Mail Track and Trace confirming posting and delivery of Notice to Quit and Section 33 Notice dated 20 December 2019 and 23 December 2019 respectively;

9. Sheriff Officer Certificate of Service of CMD Notification on Respondent dated 5 August 2020.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 25 August 2020. The Applicant did not participate but was represented by her letting agent. The Respondent did participate and was unrepresented.

The Applicant's representative explained that payment arrangements in respect of rental arrears had been agreed with the Respondent and that provide these were adhered to then the Applicant would not seek to enforce the order for eviction. The Applicant was, in the meantime, seeking the order to be granted.

The Respondent confirmed that she had reached agreement with regard to a payment plan.

The Tribunal explained to the Respondent that the order for eviction was being insisted upon and that the ground under which the order was sought did not relate to any rental arrears. The Tribunal explained that recovery of possession was being sought on the basis of termination of a short assured tenancy and that if the paperwork was in order the Tribunal had no discretion other than to grant the order. The Tribunal ensured that the Respondent understood and ascertained from the Respondent that she did not have any defence to the application.

Decision and Reasons

The Tribunal considered the documentation before it and was satisfied that it had sufficient information to determine the matter at this stage and that the procedure was fair.

The Tribunal made the following findings in fact:

1. The Parties entered into an SAT commencing 4 August 2014;
2. The SAT had reached its ish;
3. Tacit relocation was not operating;
4. No further contractual tenancy was in existence;
5. The Applicant had given the Respondent notice that it required possession.

The Tribunal considered the terms of section 33 and found that the statutory requirements had been met. The Tribunal determined that at the order for eviction and recovery of possession should be granted.

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.

Alan Strain

25 August 2020

Legal Member/Chair

Date