



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/21/1265

Re: Property at 2B Naylor Lane, Airdrie, Lanarkshire, ML6 6BA (“the Property”)

Parties:

Mrs Margaret Murray, trading as Joy Properties, Bluebell Cottage, Clay Coton Road, Stanford on Avon, Northamptonshire, NN6 6JR (“the Applicant”)

Ms Fiona Rose Graham, 2B Naylor Lane, Airdrie, Lanarkshire, ML6 6BA (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

Background

By application, received by the Tribunal on 26 May 2021, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (the “1988 Act”).

The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties for a fixed period from 23 May 2015 to 22 May 2016, a Form AT5 Notice dated 23 May 2015, a Notice to Quit dated 2 October 2020, requiring the Respondent to vacate the Property by 22 May 2021, and a Notice given under Section 33 of the 1988 Act, dated 2 October 2020, advising the Respondent that the Applicant required possession of the Property as at 22 May 2021, with proof of service by sheriff officer of the Notice to Quit and Section 33 Notice (Form AT6) on 6 October 2020.

On 6 July 2020, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 27 July 2021. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 10 August 2021. The Applicant and the Respondent were both present. The Respondent told the Tribunal that she understood that the Applicant wanted possession of the Property and that she had been in discussion with North Lanarkshire Council regarding being re-housed. She had contacted them when she received the Notice to Quit, as she did not want to remain in the private rented sector, which did not offer the same security of tenure as social housing. If the Tribunal decided to make an Order, she and her family would be moved to the highest priority for re-housing. The Applicant told the Tribunal that the Respondent had been a very good tenant.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations states that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to decide the application without a Hearing.

Section 33 of the 1988 Act, as amended by the Coronavirus (Scotland) Act 2020, provides that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that the landlord has given the tenant notice stating that he requires possession of the house and that it is reasonable to make an Order for Possession.

The Tribunal was satisfied that the tenancy has reached its end, that, by service of the Notice to Quit, tacit relocation is not operating, and that the requisite notice under Section 33 of the 1988 Act was given to the Respondent. Having considered all the evidence, and noting the steps that the Respondent had taken herself, the Tribunal considered it reasonable 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.

George Clark

Legal Member/Chair

10 August 2021
Date