



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/19/2644

Re: Property at 27 Speckled Wood Court, Dundee, DD4 0LY (“the Property”)

Parties:

Mrs Kerry Donald, 293 Perth Road, Dundee, DD2 1JS (“the Applicant”)

Miss Denise Low, 27 Speckled Wood Court, Dundee, DD4 0LY (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

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

Background

By application, received by the Tribunal on 23 August 2019, the Applicant sought an Order for possession 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 commencing on 22 June 2015 and, if not terminated on 22 December 2015, continuing on a monthly basis thereafter, a Form AT5 Notice dated 15 June 2015, a Notice to Quit and Notice given under Section 33 of the 1988 Act (Form AT6), both dated 14 June 2019 and both requiring the Respondent to vacate the Property by 22 August 2019.

On 18 September 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 9 October 2019. The Respondent did not make any written representations.

Case Management Discussion

A Case Management Discussion was held at Caledonian House, Greenmarket, Dundee, on the morning of 23 October 2019. The Applicant was present by Tania Royale of Baillie Shepherd, solicitors, Dundee. The Respondent was not present or represented. The Applicant asked the Tribunal to grant the Order for possession without a Hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 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 and that it would determine the application without a Hearing.

Section 33 of the 1988 Act provides that the Tribunal shall 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 no further contractual tenancy is for the time being in existence and that the landlord has given to the tenant notice that he requires possession of the house.

The Tribunal was satisfied that the tenancy had reached its end, that, by virtue of the Notice to Quit having been served, tacit relocation was not operating, that there was no evidence that a further contractual tenancy was for the time being in existence and that the Notice required under Section 33 of the 1988 Act had been given (the Form AT6 Notice). The requirements of Section 33 had, therefore, been met and the Tribunal was bound to grant the Order for Possession.

Decision

The Tribunal determined that the application should be granted without a Hearing and made an Order for Possession of the Property.

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

24/10/2019

Date