



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 (“the Act”) and the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/20/0317

Re: Property at 11 McIntyre Terrace, Cambuslang, Glasgow, G72 7HT (“the Property”)

Parties:

Mr Michael Kirby and Mrs Karen Kirby, Fortune Farmhouse, Leigh, Reigate, RH2 8RJ (“the Applicants”) per their agents, T.C. Young, solicitors, 7 West George Street, Glasgow G2 1BA

Mr Malcolm S Cowan, 11 McIntyre Terrace, Cambuslang, Glasgow, G72 7HT (“the Respondent”) per his agents, Legal Services Agency, Glasgow

Tribunal Members:

Karen Moore (Legal Member)

1. By application received between 30 January 2020 and 24 February 2020 (“the Application”), the Applicants’ Agents on behalf of the Applicants made an application to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Chamber”) for a possession order in terms of Section 33 of the Act. The Application comprised an application form, copy short assured tenancy agreement, copy notice to quit terminating the tenancy at the ish date of 30 December 2019 and copy notice to South Lanarkshire Council, being the relevant local authority, in terms of Section 11 of the Homelessness (Scotland) Act 2003.
2. On 3 March 2020, a legal member of the Chamber with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 13 August 2020 at 14.00 by telephone conference call. The Application was intimated to the Respondent. The CMD was intimated to both Parties.

3. By email dated 13 August 2020, the Applicants' Agent intimated to the Tribunal that agreement had been reached with the Respondent's Agent that an order of possession be granted by consent of both Parties and requesting that the CMD be dismissed on that basis. No similar intimation was received from the Respondent's Agent and so the Tribunal decided to proceed with the CMD.

Case Management Discussion

4. The CMD took place on 13 August 2020 at 14.00 by telephone. The Applicants did not take part and were represented by Mrs. Mullen of the Applicants' Agents. The Respondent did not take part and was represented by Mr. McPhee of the Respondent's Agents.
5. The Parties' Agents confirmed that the Parties had reached a settlement and that the Respondent consented to the possession order being granted. Mr. McPhee advised the Tribunal that the Respondent was seeking alternative accommodation.

Findings of the Tribunal.

6. From the Application and the CMD, the Tribunal found the following facts to be established: -
 - i) There is a short assured tenancy agreement between the Parties;
 - ii) A competent notice to quit was served on the Respondent bringing the tenancy to an end on 30 December 2019;
 - iii) Tacit relocation is not operating;
 - iv) Notice to South Lanarkshire Council, being the relevant local authority, in terms of Section 11 of the Homelessness (Scotland) Act 2003, had been given.

Decision of the Tribunal and Reasons for the Decision.

7. The Tribunal had regard to section 33 of the Act which sets out the steps which a landlord must take to bring an application for termination of a short assured tenancy to an end and determined that the Applicants had complied with these requirements.
8. Accordingly, having been satisfied that the Applicants had complied with these requirements, the Tribunal was obliged to grant an order.
9. The Tribunal then had regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussion

.....including making a decision” and so proceeded to make an order for possession to come into effect no sooner than thirty days from the date hereof, being 14 September 2020.

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.

Karen Moore

13 August 2020

Legal Member/Chair