



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/20/2660

Re: Property at 6 Ardgour Road, Kilmarnock, Ayrshire, KA3 2AB (“the Property”)

Parties:

Mr John Dobson, 11 George Young Drive, Darvel, Kilmarnock, KA17 0LG (“the Applicant”)

Claire Massey, 6 Ardgour Road, Kilmarnock, Ayrshire, KA3 2AB (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

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 lodged in advance of the Hearing:

1. Application received 23 December 2020;
2. AT5 dated 13 August 2016;
3. SAT commencing 13 August 2016;
4. Notice to Quit dated 6 March 2020;
5. Section 33 Notice dated 6 March 2020;
6. Signed receipt of Notice to Quit from Respondent dated 10 March 2020;

7. Certificate of Service of CMD Notification by Sheriff Officers dated 20 January 2021.

Case Management Discussion (CMD)

The case had called for a CMD by conference call on 22 February 2021. The Applicant participated and was represented by his solicitor. The Respondent did not participate and was not represented. The Tribunal had been satisfied that the Respondent had received notification of the CMD and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that she should attend and the Tribunal could determine the matter in absence if she did not.

The Tribunal drew to the Applicant's solicitor's attention the fact that no section 11 notification had been lodged. The Applicant's solicitor sought a continuation of the CMD to enable a section 11 Notice to be served and to copy this to the Tribunal along with evidence of service.

The Tribunal considered that it was in accordance with the overriding objective to continue the CMD for this purpose. The Tribunal indicated that it would deal with an application on the papers in terms of Rule 18 of the Tribunal Procedure Rules if the section 11 notification was produced.

On 10 March 2021 the Tribunal received a copy of the section 11 Notice and an application for determination under Rule 18.

The Tribunal made the following findings in fact from the papers:

1. Parties entered into an SAT commencing 13 August 2016;
2. Notice to Quit and Section 33 Notice had been served on 10 March 2020;
3. Section 11 Notice had been served on the local authority on 3 March 2021;
4. The SAT had reached its end and had been terminated;
5. Tacit relocation was no longer operating;
6. No further contractual tenancy was in existence;
7. The Applicant had given the Respondent notice that he required possession.

The Tribunal considered that it had sufficient information upon which to make a Decision and that the procedure was fair. The Tribunal considered the terms of section 33 and found that the statutory requirements had been met.

The Tribunal determined that 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
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Alan Strain

10 March 2021

Legal Member/Chair

Date