



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”)

Chamber Ref: FTS/HPC/EV/20/1573

Re: Property at 122 Corsehill, Kilwinning, KA13 7PA (“the Property”)

Parties:

Mr Edward Goodwin, 75A Whitton Road, Hounslow, Middlesex, TW3 2DG , represented by his agent, Ms Meaghan McDiarmid of Hovepark Lettings Limited, 56 Hamilton Street Saltcoats, KA 21 5DS (“the Applicant”)

Miss Alyson Martin, 122 Corsehill, Kilwinning, KA13 7PA (“the Respondent”)

Tribunal Member:

Jim Bauld (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted

Background

1. By application dated 23 July 2020, the applicant sought an order under section 33 of the Housing (Scotland) Act 1988 (“the Act”) and in terms of rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 24 August 2020, the application was accepted by the Tribunal and referred for determination by the tribunal.
3. A Case Management Discussion was set to take place on 9 October 2020 and appropriate intimation of that hearing was given to both the landlord and the tenant

The Case Management Discussion

4. The Case Management Discussion (CMD) took place on 9 October 2020 via telephone case conference .The applicant did not attend but was represented by his agent, Ms Meaghan McDiarmid of Hovepark Lettings Limited, 56 Hamilton Street Saltcoats, KA 21 5DS. The respondent attended personally
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters. The tribunal asked various questions of the parties with regard to the application and the applicant’s representative confirmed that she wished the tribunal to grant the order sought in the application.
6. Parties agreed that the Applicant and the Respondent as respectively the landlord and tenant entered into a tenancy of the property on 29 October 2015.They agreed it was short assured tenancy. The applicant’s representative confirmed that a Notice to Quit and a notice under section 33 of the Act had been served upon the respondent on 20 February 2020. Copies of those notices had been provided to the tribunal
7. The respondent accepted that the notices had been served upon her and had been received. She indicated that she had spoken to officials at the local council housing department and had been advised that owing to the coronavirus pandemic that she could not be evicted. The tribunal explained to the respondent that the changes to the law which had been introduced by the Coronavirus (Scotland) Act 2020 (“the 2020 Act”) only applied to notices which had been served on or after 7 April 2020. The tribunal also explained that the 2020 Act did not introduce a prohibition on evictions.
8. The tribunal explained to the applicant that in this case the tribunal was obliged to grant the order if the tribunal was satisfied that the tenancy was a short assured tenancy, that certain notices had been served correctly and that the tenancy had reached its end date. The respondent acknowledged this information.
9. Both parties then confirmed to the tribunal that the applicant was assisting the respondent in her application to the local council to obtain alternative accommodation. The tribunal explained to the parties that there would be a delay between the case management discussion and the issue of the order for possession. The tribunal explained there would be a further delay between the issue of that order and the enforcement of it and parties understood the position.

Findings in Fact

10. The Applicant and the Respondent as respectively the landlord and tenant entered into a tenancy of the property on 29 October 2015
11. The tenancy was a short assured tenancy in terms of the Act
12. On 20 February 2020 the applicant served upon the tenant a notice to quit and a notice in terms of section 33 (1) (d) of the Act. These notices were served on the respondent by recorded delivery post. Said notices became effective on 29 April 2020.
13. The notices informed the tenant that the landlord wished to seek recovery of possession using the provisions of section 33 of the Act.
14. The notices were correctly drafted and gave appropriate periods of notice as required by law.
15. The basis for the order for possession was accordingly established

Reasons for Decision

16. Section 33 of the Act states that the tribunal must grant an order for possession of a short assured tenancy where the short assured tenancy has reached its end, that tacit relocation is not operating, where no new contractual tenancy has been agreed between landlord and tenant and where the landlord has given notice to the tenant in the manner required by section 33 (1) (d)
17. The tribunal were satisfied that all of these requirements had been met by the service of the relevant notices and from the evidence given by the landlord.
18. Accordingly the tribunal was satisfied that the reason for the order for possession had been established and that in terms of the relevant section, the tribunal was obliged to grant the order sought

Decision

The order for recovery of possession is 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.

J Bauld

09/10/2020

Legal Member/Chair

Date