

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section s33 of the Housing (Scotland) 1988

Chamber Ref: FTS/HPC/EV/18/2664

Re: Property at 2/6 McGregor Walk, Alexandria, G83 0JE (“the Property”)

Parties:

Robert Bowman t/a RB Letting, 31 Balloch Rd, Balloch, Dumbartonshire, G83 8SS (“the Applicant”)

Ms Erin Marie Coyle, 2/6 McGregor Walk, Alexandria, G83 0JE (“the Respondent”)

Tribunal Members:

Ewan Miller (Legal Member)

Decision (in absence of the Respondent)

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

The Applicant leased the Property to the Respondent by way of a lease dated 21 November 2017. The Applicant had sought recovery of possession of the Property at the end date of the lease, being 22 May 2018. The Applicant alleged that the Respondent had failed to remove and therefore submitted an application dated 13 June 2018 to the Tribunal under s33 of the Housing (Scotland) Act 1988 and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

A copy of the Applicant’s application to the Tribunal was served on the Respondent by Sheriff Officer on 6th November 2018. The accompanying documentation made it clear that a Case Management Discussion was to be held on 26 November 2018 and that a decision may be made in the absence of the Respondent.

Case Management Discussion

The Case Management Discussion took place at the Glasgow Tribunal Centre, York Street, Glasgow at 2pm on 26 November 2018. The Applicant and his wife were present and were represented by Miss McCarthy of McCarthy Law, 193 Crow Road, Glasgow. The Respondent was not present. The Tribunal was satisfied that it was in order to proceed without the Respondent being present. As noted above, the papers had been served on the Respondent timeously and she had been given fair warning that a decision may be made in her absence.

The Applicant submitted that he wished his Property back. The Respondent was still living in it. The Applicant's representative was of the view that all the relevant procedures had been complied with and that the order for possession should be granted.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property
- The Applicant had leased the Property to the Respondent with effect from 21 November 2017
- The lease terminated on 22 May 2018.
- The relevant Notice to Quit and s33 Notice had been served on the Respondent timeously by Sheriff Officers instructed by the Applicant on 19th March 2018
- The relevant s11 Notice had been served on the relevant local authority
- The Respondent had failed to remove from the Property

Reasons for the Decision

This was a relatively straightforward matter for the Tribunal to decide. The ish date of the tenancy was 22 May 2018. The lease specified that at least two months notice had to be given to the Respondent to bring the lease to an end. The Applicant had given the Respondent more than two months notice and had sent all the prescribed forms completed correctly and served timeously on the Respondent. In those circumstances the Tribunal was required to grant the order for possession. There appeared to be no reason for the decision not to be made at the Case Management Discussion and no benefit in continuing the matter to a full hearing of the Tribunal

Decision

The Tribunal determined to grant an order for possession of the Property in favour of the Applicant against the Respondent.

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.

Mr Ewan Miller

Legal Member/Chair

26/11/18

Date