



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/18/2988

Re: 14 Cranston Crescent, Lauder, TD2 6UB (the "Property")

Parties:

Mark Worsley, 31/13 Simpson Loan, Edinburgh EH3 9GG (the "Applicant")

Emma Herdman, 14 Cranston Crescent, Lauder, TD2 6UB (the "Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the "Tribunal") determined that an order for possession of the Property should be made.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement signed by the Applicant and the Respondent dated 22 October 2015; AT5 signed by the Applicant and the Respondent dated 21 October 2015; Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 (the "1988 Act") both dated 22 August 2018; Post Office proof of delivery evidencing service of the Notice to Quit and Section 33 Notice on 22 August 2018 and delivery on 25 August 2018; Notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with Post Office proof of delivery evidencing service on 3 December 2018 and delivery on 5 December 2018 and certificate of service by Sheriff Officer evidencing service of a letter from the First-tier Tribunal enclosing a full set of papers on the Respondent on 24 January 2019.

Case Management Discussion

A hearing took place on 14 February 2019 at 10.00am at the Langlee Community Centre, Marigold Drive, Galashiels TD1 2LP. The Applicant was represented by Sebastian Janus of Cullen Kilshaw, Solicitors. The Applicant's wife, Samantha Worsley was in attendance. There was no appearance on behalf of the Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 22 October 2015.
2. The Applicant and the Respondent had signed the AT5 on 21 October 2015.
3. The tenancy commenced on 1 November 2015 and was stated to be for the period ending 31 May 2016 and month to month thereafter.
4. A Notice to Quit and Notice in terms of Section 33 of the 1988 Act both dated 22 August 2018 was served on the Respondent on 25 August 2018 stating that the tenancy would terminate on 31 October 2018 and that possession of the Property was required on 1 November 2018.
5. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
6. Notice of the date of the hearing had been given to the Respondent on 24 January 2019.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy. The Tribunal further noted that a Notice to Quit and Section 33 Notice had been served on the Respondent more than two months prior to the hearing. In all of the circumstances, it was appropriate for an Order to be made.

Decision

The Tribunal grants 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.

Joan Devine

Legal Member _____

14 February 2019
Date