

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision 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/18/0836

Re: Property at 8 Derwent Court, Kilmarnock, KA3 1HQ (“the Property”)

Parties:

Dr Umar Dar, 23 Somerbay Green, Boston, PA21 8PH (“the Applicant”)

Mr Robert Cameron, 8 Derwent Court, Kilmarnock, KA3 1HQ (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

The Landlord’s application for recovery of possession under Section 33 of The Housing (Scotland) Act is granted.

Background

This is an application for recovery of possession of the property submitted by the landlord and received by the Tribunal on 6th April 2018. Prior to the Case Management Discussion Mr Buttery of Messrs Freelands, solicitors intimated that he had been consulted by the Tenant. Present at the Case Management Discussion were Mr Kasim Hussain, of Messrs Martin & Co., agents of the Landlord and Mr Alistair Buttery who indicated that he had instructions from the Tenant.

Case Management Discussion

At the outset, Mr Buttery said that his instructions were not to oppose the application. He explained that his client is in prison and awaiting the decision of a Parole Board Hearing and that his issue was dealing with the possessions in the house. He said that, if an order for possession was made, his client would clear the property if he is released or, alternatively, would arrange for someone to do so. Mr Hussain said that the matter had been going on for some time and that the Landlord wanted resolution of the application as soon as possible. No issues were identified by the parties other than the matter of the Tenant's possessions in the house. Mr Buttery accepted that the tenancy had reached its end, that tacit relocation is not operating, that no further contractual tenancy is in existence and that the Tenant had received the appropriate notice of the Landlord requiring possession of the Property. Neither party sought a Hearing to be fixed.

Decision

The Landlord's application for recovery of possession under Section 33 of The Housing (Scotland) Act 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

M McAllister

15th June 2018

Martin J. McAllister
Legal Member/Chair

Date