



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/19/0272

Re: Property at 56 Taylor Street, Flat 4, Ayr, KA8 8AU (“the Property”)

Parties:

McCartney Homes Ltd, 4 Atlantic Quay, 70 York Street, Glasgow, G2 8JX (“the Applicant”)

Miss Cheryl Wallace, 56 Taylor Street, Flat 4, Ayr, KA8 8AU (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. An application was received under rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a short assured tenancy by the Applicant against the Respondent for the property.
2. The application contained
 - a copy of the tenancy agreement,
 - a copy of the AT5,
 - a copy of the Section 33 Notice,
 - a copy of the Notice to Quit,
 - certificate of service for the notice to quit and the section 33 notice; and
 - section 11 notice to the local authority.

3. Notice of the Hearing had been served on the Respondent by sheriff officers on 9 April 2019.
4. The Applicant's letting agent, Gemma McFarlane appeared on behalf of the Applicant. The Respondent did not attend the case management discussion, however as I was aware that that she had had notice of today's hearing I was prepared to proceed with it in her absence.

Case Management Discussion

5. The Applicant referred me to the papers which had been lodged in support of the application, including the tenancy agreement, AT5, notice to quit, Section33 notice and certificate of service.

Findings in Fact

6. I found the following facts established.
7. There was a tenancy in place between the Applicant and the Respondent. It had commenced on 17 March 2014 for an initial period of 6 months until 16 September 2014, and then it continued on a month to month basis thereafter.
8. The tenancy provided that in the event that that the landlord wished to terminate the lease he had to provide two months' notice.
9. The tenancy agreement had been signed on 17 March 2014 by the parties at 12 noon.
10. The AT5 Form was in the prescribed format and it had been received by the Respondent on 17 March 2014 at 11.55 am.
11. I was satisfied that short assured tenancy had been created.
12. The notice to quit and section 33 notices both contained the prescribed information and both were dated 16 October 2018 both sought vacant possession as at 17 January 2019 and there was evidence that these notices had been served by sheriff officers on 23 October 2018 . They both provided more than 2 months' notice of vacant possession.

Reasons for Decision

13. Section 33 of the 1988 Act requires me to grant an order for possession under a short assured tenancy, where the tenancy has reached its ish; tacit relocation is not operating; no further contractual tenancy for the time being is in existence; and the landlord has given notice to the tenant that they require possession of the house.

14. I am satisfied that these requirements have been met and therefore I consider that I am required to grant an order for eviction under section 33 of the 1988 Act

Decision

15. I grant an order in favour of the Applicant against the Respondent for recovery of possession of the short assured tenancy.

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.

M Barbour

Legal Member/Chair

30. 4. 19

Date