



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/20/0356

Re: Property at 97 Paradykes Avenue, Loanhead, Midlothian, EH20 9LF (“the Property”)

Parties:

Mrs Gail Thomson, 18 Clerk Street, Loanhead, Midlothian, EH20 9DR, (“the Applicant”)

Mr David Brodie, Mrs Denise Brodie, 97 Paradykes Avenue, Loanhead, Midlothian, EH20 9LF, (“the Respondents”)

Tribunal Members:

Lynsey MacDonald

Decision

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

1. Background

1.1. The Applicant sought an order for eviction in respect of the property. An application in terms of Rule 66 (Possession on Termination of Short Assured Tenancy) dated 31st January 2020 was received by the Tribunal, stating that recovery was sought under section 33 of the Housing (Scotland) Act 1988.

1.2. In support of the application the Applicant lodged copies of: the tenancy agreement; the AT5 notice; section 33 notices and notices to quit in respect of each of the Respondents, together with an execution of service in respect thereof; and the section 11 notice, together with confirmation of receipt.

1.3. The Tribunal fixed a Case management Discussion for 27th March 2020 and this was intimated to parties.

1.4. As a result of the coronavirus pandemic, the Case Management Discussion was postponed to 9th July 2020, and thereafter rescheduled for 14th July 2020. The date was intimated to both parties.

2. The Case Management Discussion

2.1. The Applicant attended the Case Management Discussion on her own behalf.

2.2. Mrs Denise Brodie (“the Second Respondent”) attended the Case Management Discussion on behalf of both Respondents.

2.3. The Tribunal proceeded on the basis of the written documents which had been lodged by the Applicant, together with oral submissions from her, and oral submissions from the Respondent.

2.4. The Applicant made reference to a separate application in respect of rent arrears. That matter was not before the Tribunal, and the parties were advised that an application in respect of rent arrears would not be dealt with at the Case Management Discussion. The Applicant invited the Tribunal to proceed with the current application in any event, and to grant the order for possession.

2.5. The Second Respondent advised that the Respondents had received the section 33 notices and the Notices to Quit, and that she did not take issue with the timing of those notices.

2.6. The Applicant submitted that it would be reasonable to grant the order because there had been ongoing problems relating to lateness of rent payments, and there were rent arrears in respect of December 2019, January 2020 and February 2020.

2.7. The Respondent accepted that there had been some problems with payment of rent, but stated that she always caught up with rent arrears. In due course, the rent arrears would be paid through the Universal Credit system at the rate of £100 per week. The Respondents wanted to stay in the property.

3. Findings in Fact

3.1. The Respondents entered into a tenancy agreement with the Applicant on 1st December 2016.

3.2. The tenancy was a short assured tenancy which commenced on 1st December 2016 and was due to end on 2nd June 2017. The tenancy agreement allowed for monthly continuation, and termination by the Applicant with two months' notice.

3.3. On 2nd October 2019 the Applicant served on each of the Respondents, by Sheriff Officer, a section 33 notice and a Notice to Quit, requiring possession of the property by 2nd December 2019.

3.4. The short assured tenancy ended on 2nd December 2019.

3.5. The Respondents failed to leave the property.

3.6. There were rent arrears in sum of £2,100, in respect of non-payment of rent for December 2019, January 2020, and February 2020.

4. Reasons for Decision

4.1. There was little in dispute between the parties. The Applicant had served the required notices, which was accepted by the Respondents. Further, the Respondents did not dispute the circumstances relating to rent arrears.

4.2. The Tribunal accepted that the short assured tenancy had reached its finish, and that tacit relocation was not operating.

4.3. The Tribunal accepted that the Applicant had given the Respondents two months' notice that possession of the property was required.

4.4. Accordingly the Tribunal determined the grounds for possession were met.

4.5. The Tribunal accepted that there had been ongoing issues relating to non-payment or late payment of rent, and that three months' rent was outstanding. In these circumstances the Tribunal was satisfied that it was reasonable to grant the order for possession.

5. Decision

The grounds for possession being met, and it being reasonable to do so, the order for 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.

13th July 2020

Lynsey MacDonald

Legal Member

Date