



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/18/0560

Re: Property at 20 Easterton Avenue, Busby, G76 8JJ (“the Property”)

Parties:

Mr James Gormley, 8 Airylogg Drive, Eaglesham, G76 0LJ (“the Applicant”)

Ms Alison Fase, 20 Easterton Avenue, Busby, G76 8JJ (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member)

Decision

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

- **Background**

The application is for an order for possession on termination of a Short Assured Tenancy of the property known as and forming 20 Easterton Avenue, Busby, G76 0LJ. An application was submitted to the Tribunal by the Applicant dated 6 March 2018 setting out that the Applicant seeks possession on the termination of the Short Assured Tenancy.

Documents lodged with the Tribunal were the Tenancy Agreement, AT5, Section 33 Notice, Notice to Quit, Section 11 Notice addressed to East Renfrewshire Council, document confirming AT5 received.

The Tribunal fixed a Case Management Discussion and this was intimated to parties. The Respondent was served notice by Sheriff Officers on 19 April 2018 of the case and details of the Case Management Discussion. No written responses were received from the Respondent. The Tribunal wrote to the Applicant on 19 March 2018 requesting that the Applicant be in a position to provide the Tribunal with the following information:

1. The Applicant's title to the property;
2. Evidence of service of the Notice to Quit upon the tenant; and
3. Evidence of service of the section 33 notice upon the tenant.

- The Hearing/Case Management Discussion

The hearing took place today. The Applicant and Respondent were both in attendance and neither had representation. The Tribunal dealt firstly with the preliminary matters of title and service of section 33 Notice and Notice to Quit. The Applicant provided the Tribunal with the relevant Land Register entry which was copied for the file. Discussion took place that the Applicant owned a number of properties but had never evicted anyone before. The Respondent's personal circumstances had changed and she could no longer afford to live at the property. Both the Applicant and Respondent were in agreement that the Respondent required alternative accommodation. The Local Authority had indicated that they would not find the Respondent alternative accommodation unless and until such time as she was formally evicted from the property. The Applicant had joined SAL and had taken advice on service of the notices. The Respondent had signed receipt of both the Section 33 Notice and Notice to Quit on 7 December 2017. The Applicant understood that he should have served the notices by recorded delivery but he argued that the Respondent having signed receipt of the Notices should suffice. The Respondent was in agreement with this. The alternative would have been to require to process to be started again causing yet further delay. The Tribunal went through all the documentation before it and it was confirmed by both the Applicant and the Respondent that everything was as indicated in the documents.

- Findings in Fact

1. The Applicant and the Respondent entered into a Short Assured Tenancy Agreement signed and dated 1 March 2007. The tenancy was for an initial period of 6 months and would continue monthly thereafter.
2. The Respondent was served with an AT5 prior to the creation of the Tenancy Agreement.
3. A Notice to Quit was hand delivered to the tenant and she signed receipt thereof on 7 December 2017 asking her to remove from the property as at 1 March 2018 (the ish date).
4. A Section 33 Notice was hand delivered to the tenant and she signed receipt thereof on 7 December 2017 again requesting the Respondent vacate the property as at 1 March 2018.
5. The Applicant is entitled to the order sought for repossession.

- Reasons for Decision

The Tribunal proceeded on the basis of the written documents before it as detailed above and the evidence of both the Applicant and Respondent. In respect of the service of the Notices it could be argued that the Respondent had cured any defect in service by signing receipt. In any event she was at the Case Management Discussion today and wished the Notices to be treated as having been properly served to avoid any further delays in the resolution of her housing situation. In this regard the Tribunal took into account the overriding objective in Rule 2 of the Chamber Rules to deal with proceedings justly.

- Decision

The order for eviction/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.

Anne Mathie

Legal Member/Chair

Date

15 May 2018