

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/20/0316

Re: Property at 35 Inchgarvie Park, Edinburgh, EH30 9RN (“the Property”)

Parties:

Ms Lorraine Fleming, 13 Springfield View, South Queensferry, Midlothian, EH30 9RZ (“the Applicant”)

Mr Graham Murray, Ms Jenna Hastie, Unknown, Unknown (“the Respondents”)

Tribunal Members:

Lynsey MacDonald (Legal Member)

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. This was a continued Case Management Discussion, there having been a defect in service of the application upon the Respondents in respect of the original Case Management Discussion which called on 14th July 2020.

1.2. Service was effected by advertisement from 3rd August to 7th September 2020.

1.3. The Applicant sought an order for possession in respect of the property. By separate application the Applicant sought an order for payment in respect of rent arrears.

2. The Case Management Discussion

2.1. The Applicant did not personally attend the Case Management Discussion, but was represented by Ms Morrison, Solicitor.

2.2. The First Respondent, Mr Murray, attended the Case Management Discussion on behalf of both Respondents.

2.3. Ms Morrison invited the Tribunal to grant the order for possession, the statutory requirements having been met.

2.4. The First Respondent advised that he had not received any of the documentation relating to the application. He advised that he was only aware of the application because he had received a copy of the Applicant's motion to amend the sum sued for in the related application in respect of rent arrears. The First Respondent sought time to remove his belongings and return the keys to the Applicant, which he indicated would take only a few weeks.

2.5. The Respondent did not dispute having received the said notices and had had the opportunity to read them. The First Respondent's only objection to an order for eviction was that he wished further time to remove his belongings. The Tribunal determined that it was fair to consider the merits of the application given that the Respondent confirmed that he had previously had sight of the tenancy agreement, the section 33 notice and the Notice to Quit.

3. Findings in Fact

3.1. The Respondents entered into a tenancy agreement with the Applicant on 8th September 2010. The tenancy was due to end on 13th March 2011, but allowed for monthly continuation, and termination with two months' notice.

3.2. The tenancy was a short assured tenancy agreement.

3.3. On 12th June 2019 the Applicant served on each of the Respondents, by Sheriff Officer, a section 33 notice and a Notice to Quit. Possession of the property was required on 13th August 2019.

3.4. The short assured tenancy ended on 13th August 2019.

3.5. The Respondents left the property to live at another address, but continued to store belongings at the property. The Respondents did not return the keys for the property to the Applicant and have continued to visit the property. As at today's date the Respondents had not vacated the property.

4. Reasons for Decision

4.1. There was no disagreement between the Applicant and the Respondents as to the circumstances which had resulted in the application.

4.2. The Tribunal accepted that the short assured tenancy had reached its finish, and 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. The Tribunal determined that the grounds for possession were met and that it was reasonable to grant the order.

5. Decision

The grounds for possession being met, 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.

L MacDonald

07/09/20

Legal Member

Date