



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/20/0763

Re: Property at 54 La Porte Precinct, Grangemouth, FK3 8BG (“the Property”)

Parties:

NewRiver Trustee 5 Limited, IFC 5, St Helier, Jersey, JE1 1ST (“the Applicant”)

Mr Paul McKnight, 54 La Porte Precinct, Grangemouth, FK3 8BG (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for possession of the property and the removal of the Respondent from the property.

Background

1. By application dated 3 March 2020 the Applicant’s representatives Addleshaw Goddard LLP, Solicitors, Edinburgh applied to the Tribunal for an order against the Respondent for possession of the property under Section 33 of the Housing (Scotland) Act 1988 on the ground that the tenancy had reached its term. The applicant’s representatives submitted a copy of the Tenancy Agreement, Form AT5, Section 33 Notice, Notice to Quit and Section 11 Notice.
2. By Notice of Acceptance dated 7 May 2020 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.
3. Intimation of the Case Management Discussion was sent to the Applicant’s representatives by post on 6 July 2020 and intimation was served on the Respondent by Sheriff Officers on 7 July 2020.

The Case Management Discussion

4. A Case Management Discussion was held by teleconference on 11 August 2020. The Applicant was represented by Ms Rae of the Applicant's representatives. The Respondent did not attend and was not represented. The Tribunal on being satisfied that intimation had been given to the Respondent by Sheriff Officers determined to proceed with the Case management Discussion in his absence.
5. Ms Rae confirmed to the Tribunal that the Respondent had entered into a Short Assured Tenancy Agreement with the then Landlords Baronsgate Estates Limited on 9 August 2011 for a period of six months until 10 February 2012. Ms Rae referred the Tribunal to the form AT5 dated 9 August 2011. She confirmed that the tenancy had then been extended for a further six month period and had then continued thereafter by tacit relocation for further six month periods.
6. Ms Rae went on to explain that Baronsgate Estates Ltd had sold the property to the Applicants in 2013 and referred the Tribunal to the Title Sheet lodged with the case papers.
7. Ms Rae confirmed that a Notice to Quit and Section 33 Notice had been sent to the Respondent by recorded delivery post on 28 November giving the Respondent notice that the tenancy would end on its ish of 10 February 2020. She also confirmed that a Section 11 Notice had been sent by email to Falkirk Council on 3 March 2020.
8. The Tribunal queried whether it was known if the Respondent was still living in the property an Ms Rae explained that the property agents were uncertain as it did not appear if anything had been moved at the property for some months and there was a lot of mail accumulating. The Respondent had stopped paying rent some months ago.
9. Ms Rae submitted that as the Notices had been properly served the order should be granted.

Findings in Fact

10. The Respondent entered into a Short Assured tenancy with Baronsgate Estates Limited for a period of six months from 9 August 2011 to 10 February 2012.
11. The tenancy was extended by mutual agreement for a further period of six months and then continued by tacit relocation for six month periods thereafter.
12. Baronsgate Estates Limited sold their interest in the property to the Applicant in 2013 and the Applicant became the Respondent's landlord at that time.
13. The respondent was served with a Section 33 Notice under the Housing (Scotland) Act 1988 and a Notice to Quit by recorded delivery post sent on 28

November 2019. The date for the termination of the tenancy and his removal from the property was 10 February 2020.

14. The Respondent did not remove from the property on 10 February 2020.
15. The Applicant's representatives gave notice to Falkirk Council of these proceedings by a Section 11 Notice sent on 3 March 2020.

Reasons for Decision

16. Having considered the documents submitted by the Applicant's representatives and the oral submissions of Ms Rae the Tribunal was satisfied that the Respondent had entered into a Short Assured Tenancy Agreement that had initially endured for a period of six months. It had then been continued for a further period of six months by agreement and thereafter by tacit relocation again for further periods of six months. The Tribunal was therefore satisfied that 10 February 2020 was an ish date.
17. The Tribunal was satisfied from the documents submitted and the oral submissions of Ms Rae that the Respondent had been sent by recorded delivery post a valid Section 33 Notice and Notice to Quit.
18. The Tribunal was satisfied that Falkirk Council had been sent a Section 11 Notice by the Applicant's representatives at the commencement of the proceedings and therefore all the statutory requirements had been met.
19. Having considered the documents submitted and the oral submissions the Tribunal was satisfied that it had sufficient information before it to make a decision without the need for a further hearing.

Decision

20. The Tribunal finds the Applicant entitled to an order for possession of the property and for the removal of the Respondent from the property.

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.

Graham Harding

Graham Harding
Legal Member/Chair

11 August 2020
Date