



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/20/1222

Re: Property at 10 Earncraig Green, Irvine, KA11 1JH (“the Property”)

Parties:

Mr Andrew Gibson, c/o Lomond Property, 51 Main Street, Prestwick, KA9 1AD (“the Applicant”)

Miss Catherine Dunnachie, 10 Earncraig Green, Irvine, KA11 1JH (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision

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

Background

1. This is an application received in the period from 29th May to 23rd June 2020, made in terms of Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) and Section 33 of the Housing (Scotland) Act 1988 (“the Act”). The Applicant is seeking recovery of possession on termination of a short assured tenancy that commenced on 16th April 2013, with an initial term of six months and monthly thereafter. The Applicant’s representative lodged a copy of the tenancy agreement between the parties, together with copy Form AT5 dated 16th April 2013, copy Notice to Quit and Section 33 Notice dated 13th and served on 15th January 2020, and copy Section 11 Notice. The Notice to Quit required the Respondent to leave by 15th March 2020

The Case Management Discussion

2. A Case Management Discussion (“CMD”) took place by teleconference call on 31st August 2020. Neither party was in attendance. The Applicant was represented by Mr Stephen Spence, Lomond Property. The Respondent was represented by Mr Alister Meek, CHAP.
3. Mr Spence moved for an order for possession of the Property.
4. Mr Meek said the Respondent was not opposing the order, but she required a period of at least three weeks to allow her to vacate the Property and move into social housing.
5. The Tribunal notified representatives that an order for possession could not be actioned before the 30 day appeal period has expired, therefore, this would seem to give the Respondent time to vacate the Property.

Findings in Fact

6.
 - (i) The parties entered into a short assured tenancy in respect of the Property on 16th April 2013, with an initial term of six months and monthly thereafter.
 - (ii) Notice to Quit and Section 33 Notice dated 13th January 2020 were served on the Respondent on 15th January 2020.
 - (iii) The short assured tenancy has reached its ish date.
 - (iv) The contractual tenancy terminated on 15th March 2020.
 - (v) Tacit relocation is not in operation.
 - (vi) The Applicant has given the Respondent notice that they require possession of the Property.

Reasons for Decision

7. Section 33 of the Act provides that the Tribunal shall make an order for possession if satisfied that the short assured tenancy has reached its finish and that tacit relocation is not operating. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that he requires possession of the Property. In the circumstances, the Tribunal must grant the order sought.

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.

Helen Forbes

Legal Member/Chair

31st August 2020
Date