



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/20/1246

Re: Property at 3 Cornhill Street, Newburgh, Fife, KY14 6BN (“the Property”)

Parties:

W & R Sneddon, W & R Sneddon, 4 Knowelea Terrace, Perth, PH2 0HQ (“the Applicants”)

Miss Michelle Pearson, Ms Michelle Pearson, 3 Cornhill Street, Newburgh, Fife, KY14 6BN; Stratheden Hospital, Cupar, Fife, KY15 5RR (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondent)

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 under section 33 of the Housing (Scotland) Act 1988.

Background

1. This is an application dated 5th 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 Applicants are seeking an order for possession of the Property.
2. The Applicants lodged a copy short-assured tenancy agreement which commenced on 1st April 2014 for a period of six months and monthly thereafter, copy Form AT5 dated 26th March 2014, copy Notice to Quit and Section 33 notice dated and served on 20th February 2020 requiring the Respondent to

remove from the Property by 1st May 2020 and copy section 11 notice served on 4th April 2020.

3. A Case Management Discussion (“CMD”) took place by telephone conference on 19th August 2020. The Applicants were in attendance. The Respondent was not in attendance. The Tribunal was not satisfied that the Respondent had been given reasonable notice of the time and date of the CMD, as it had previously been disclosed by the Applicants that the Respondent was in hospital. The Applicants agreed to amend the application to note the new address for the Respondent.
4. A CMD was set down for 22nd September 2020.
5. Notification of the CMD was made upon the Respondent by Sheriff Officers serving papers at her home address on 3rd September 2020 and by Recorded Delivery at the hospital on 8th September 2020.

The Case Management Discussion

6. A Case Management Discussion (“CMD”) took place by telephone conference on 22nd September 2020. The Applicants were in attendance. The Respondent was not in attendance.
7. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD. The Tribunal determined that the requirements of Rule 24(1) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent, upon the representations of the Applicants and all the material before it.
8. The Applicants moved for an order for repossession of the Property.

Findings in Fact

9.
 - (i) The parties entered into a short assured tenancy in respect of the Property on 1st April 2014 for a period of six months and monthly thereafter.
 - (ii) Notice to Quit and Section 33 Notice dated 20th February 2020 were served on the Respondent on 20th February 2020.
 - (iii) The short assured tenancy has reached its ish date.
 - (iv) The contractual tenancy terminated on 1st April 2020.

- (v) Tacit relocation is not in operation.
- (vi) The Applicants have given the Respondent notice that they require possession of the Property.

Reasons for Decision

10. 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 Applicants have given the Respondent notice that they require possession of the Property. In the circumstances, the Tribunal must grant the order sought.

Decision

11. An order for possession of the Property is granted against the Respondent under section 33 of the Housing (Scotland) Act 1988.

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

22nd September 2020
Date