



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/20/1619

Re: Property at 12 Bale Court, Cambuslang, Glasgow, G72 6ZN (“the Property”)

Parties:

Mr John Paul Maguire, c/o Lets Let, 37 Cadzow Street, Hamilton, ML3 6EE (“the Applicant”)

Mr Ryan John Harper, 12 Bale Court, Cambuslang, Glasgow, G72 6ZN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

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

Background

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. This case was conjoined with FTS/HPC/CV/1620.

Case Management Discussion

3. The Tribunal held a Case Management Discussion (“CMD”) on 19th October 2020 by teleconferencing. The Applicant was not present but was represented by Ms Kirsty Donnelly, solicitor, Bannatyne Kirkwood France & Co. The Applicant was not present. The Respondent was present and represented

himself. Both parties were written to on 18th September asking for any representations to be sent to the Housing and Property Chamber no later than 9th October 2020. No representations were submitted.

4. The Respondent stated that he did not object to the application as he had received the appropriate notices. He had not been clear on the fact that the eviction order was a mandatory ground on a no fault basis. This was explained to him by the Tribunal.
5. The Applicant's solicitor invited the Tribunal to grant the Order in terms of Rule 66 noting that the requirements for section 33 had been met. She also noted that the notices had been served prior to the introduction of the Coronavirus (Scotland) Act 2020.
6. The Tribunal was satisfied that the requirements of section 33 had been met and granted the Order as sought.

Findings in Fact

7. The parties entered into a Short Assured Tenancy on 10th November 2017 which was thereafter continued on 10th May 2018 for a 6 months period until 10th November 2018 and continued on a month to month basis from that date. An AT5 was signed by both parties on the same date as the initial lease. The rent payments of £575 are due on the 10th day of each month.
8. The Housing and Property Chamber received an Application dated 30th July 2020.
9. A Notice to Quit and Section 33 were both served on the Respondent on 19th February 2020 requiring the Respondent to remove himself from the Property on 10th May 2020.
10. The Tenancy terminated on 10th May 2020. Tacit relocation is not in operation.

Reasons for Decision

11. 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 end 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 they require possession of the Property. In the circumstances the Tribunal must grant the Order sought.

Decision

12. The Applicant is entitled to an Order of for recovery of possession.

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.

Gabrielle Miller



Legal Member/Chair

19th October 2020

Date