



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/22/0817

Re: Property at 2 Conglass Cottages, Inverurie, AB51 5DN (“the Property”)

Parties:

Mr Patrick Stephen, Firth Farm, Lilliesleath, Melrose, TD6 9JW (“the Applicant”)

Ms Janina Kawaleci, 2 Conglass Cottages, Inverurie, AB51 5DN (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. By decision dated 6 May 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant’s representative on 9 May 2022. The Tribunal intimated the application to the parties by letter of 21 May 2022 and advised them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has

sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 11 June 2022. On 8 June 2022, the Respondent sent an email to the Tribunal indicating that the application is not opposed.

The case management discussion

4. The case management discussion took place by conference call. The Applicant was represented by Ms Holly Cavanagh. The Respondent was personally present. The Tribunal was assisted by Ms Beaca Kubikowska, Polish interpreter, who interpreted the proceedings for the Respondent. The Applicant's representative explained that the Notice to Quit and the Notice in terms of Section 33 of the Housing (Scotland) Act 1988 were served on the Respondent personally by the Applicant. The Respondent acknowledged that she had received the notices. The Respondent is 63 years of age and is in employment. She has already been in contact with the local authority to advise that the Applicant wishes to recover possession of the property. The Applicant's representative advised that the Applicant intends to sell the property. A copy of the offer to purchase the property was produced. The Applicant's representative submitted that it was reasonable in all of the circumstances to grant the order for eviction.

Findings in Fact

5. The parties entered into a short assured tenancy which commenced 1 January 2016.
6. The Applicant's representative served the Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by recorded delivery on 18 August 2021 indicating that the Applicant required possession of the property by 28 February 2022.
7. The short assured tenancy had reached its end.
8. Tacit relocation was not operating.
9. No further contractual tenancy is in operation.

Reason for Decision

10. The Tribunal proceeded on the basis of the written documents which were before it. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Section 33 of the Act. The notice had been properly served. The Tribunal was satisfied that conditions of Section 33 had been met. There was nothing before the Tribunal challenging or disputing any of the evidence before it. The Respondent did not challenge the

reasonableness of an order being granted. The Tribunal was satisfied that it was reasonable to grant the order evicting 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.

N Irvine

Legal Member/Chair

19 July 2022

Date