



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/22/2877

Re: Property at Tigh Ban, Kilberry, By Tarbert, PA29 6YD (“the Property”)

Parties:

The Mackie Campbell Trust, Baravall, Stonefield Farms, Tarbert, PA29 6XX (“the Applicant”)

Mr Jonathan Sheldrick, Mrs Nelleke Sheldrick, Tigh Ban, Kilberry, By Tarbert, PA29 6YD (“the Respondents”)

Tribunal Member:

Ms H Forbes (Legal Member) and Mrs M Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that no order should be granted

Background

1. This is an application made in terms of Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant was seeking an order for possession in respect of the Property which is the subject of a short assured tenancy agreement between the parties commencing on 6th June 2016.
2. The Applicant’s representative lodged a copy of the tenancy agreement, copy section 11 notice with evidence of service, Form AT5, and Notice to Quit and Section 33 notice dated and served on 20th September 2021, together with evidence of service.
3. Service of the application and a forthcoming Case Management Discussion was made upon the Respondents by Sheriff Officer on 26th October 2022 by leaving at the Property.

Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 29th November 2022. Neither party was in attendance. The Applicant was represented by Mr Jwad Hanif, Solicitor.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the Hearing, together with details on joining the telephone conference. The Tribunal determined that the requirements of Rule 17(2) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondents.
6. Following discussion regarding the notices served and the reasonableness of making an order, the Tribunal adjourned to allow Mr Hanif to make further enquiries of the Applicant.
7. Upon reconvening, Mr Hanif said he had been told that the tenancy ended and the Respondents left the Property on 12th October 2022, at which time a handover took place between the parties. The Applicant had indicated to Mr Hanif that they were seeking an order for possession to complete their paperwork.
8. The Tribunal adjourned to consider matters.
9. The Tribunal decided that it was not appropriate to make an order for possession in the circumstances, as the tenancy ended by mutual agreement six weeks ago.

Decision

10. No order is granted.

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

29th November 2022
Date