



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/22/0755

Re: Property at 23 Scollon Avenue, Bonnyrigg, Midlothian, EH19 3QB (“the Property”)

Parties:

Mrs Julie Erskine, 3 South Quarry Avenue, Gorebridge, Midlothian, EH23 4GU (“the Applicant”)

Miss Kelly Innes, 23 Scollon Avenue, Bonnyrigg, Midlothian, EH19 3QB (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Ms A Moore (Ordinary Member)

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

Background

1. This is an application dated 14th March 2022, made in terms of Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) seeking an order for possession. The Applicant’s representative included with the application a copy of the short assured tenancy agreement between the parties, which tenancy commenced on 29th May 2015 for a period of six months, Form AT5, copy Section 11 Notice with notification of service on the local authority, copy Notice to Quit dated 23rd August 2021, and bringing the statutory tenancy to an end on 29th November 2021, and copy section 33 Notice dated 23rd August 2021, and requiring the Respondent to quit the Property by 1st March 2022, together with notification of service.

Case Management Discussion

2. A Case Management Discussion (“CMD”) took place by telephone conference on 6th June 2022. The Applicant was not in attendance and was represented by Mr Steven Erskine. The Respondent was in attendance.

3. Mr Erskine said the Applicant is seeking an order for possession as she and Mr Erskine wish to move Mr Erskine's elderly parents into the Property. There was some discussion about the circumstances of his parents. Mr Erskine said there was a small downstairs room that could be adapted for use as a downstairs toilet, which would assist his parents.
4. The Respondent, who is a single parent of two children, indicated that she was not opposed to the order and it would be of assistance to her in securing social housing if the order was granted. She has been in discussion with the local authority and has been informed she will not secure social housing without an order.
5. The Tribunal adjourned to consider its decision. The Tribunal decided it was reasonable in all the circumstances to grant the order sought.

Findings in Fact and Law

6.
 - (i) Parties entered into a short assured tenancy agreement in respect of the Property that commenced on 29th May 2015 for a period of six months.
 - (ii) Notice to Quit and Section 33 Notice were served on the Respondent on 25th August 2021.
 - (iii) The short assured tenancy has reached its ish date.
 - (iv) The contractual tenancy terminated on 29th November 2021.
 - (v) Tacit relocation is not in operation.
 - (vi) The Applicant has given the Respondent notice that she requires possession of the Property.
 - (vii) It is reasonable to grant the order for possession.

Reasons for Decision

7. Section 33 of the Act provides that the Tribunal may make an order for possession if satisfied that the short assured tenancy has reached its finish, tacit relocation is not operating, the landlord has given notice to the tenant that they require possession, and it is reasonable to make the order. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that she requires possession of the Property. The Respondent is in the process of seeking social housing and will not be granted such housing without an order for possession. She is not opposing the order. In all the circumstances, it is reasonable to grant the order sought.

Decision

8. An order for possession of the Property is granted in favour of the Applicant under section 33 of the Housing (Scotland) Act 1988. The order cannot be executed prior to 12 noon on 8th July 2022

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.

H. F

Legal Member/Chair

6th June 2022
Date