



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/23/0329

Property: Flat 4/3, 2 Barrland Court, Glasgow G41 1QH ("Property")

Parties:

Alan Dickson, 46 Auldhouse Road, Newlands, Glasgow G43 1UR ("Applicant")

1st Lets (Glasgow) Ltd, 2 Calder Street, Glasgow G42 7RT ("Applicant's Representative")

Roddy Morrison, Flat 4/3, 2 Barrland Court, Glasgow G41 1QH ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that an order for possession of the Property should be made.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Short Assured Tenancy Agreement dated 12 January 2008; AT5 dated 12 January 2008; Notice to Quit dated 17 August 2021 addressed to the Respondent; Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") dated 17 August 2022 addressed to the Respondent; Royal Mail proof of delivery on 25 August 2022; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 2 January 2023 and sheriff officer certificate of service of the application on 5 April 2023

Case Management Discussion ("CMD")

A CMD took place on 10 May 2023. The Applicant was in attendance as was Joanne Simpson of the Applicant's Representative. There was no appearance by the

Respondent. The Tribunal noted that the Notice to quit was dated 17 August 2021. Ms Simpson confirmed this was a typographical error and that it should have been dated 17 August 2022. The tribunal noted that the key requirements of a notice to quit were correct and in those circumstances the notice was valid.

Mr Dickson told the Tribunal that he was seeking to recover possession of the Property as the Respondent had fallen into rent arrears which had now reached over £3000 being 7 months rent. He said that he had not increased the rent since putting the tenancy in place in 2008 as his objective was to cover his mortgage repayments and factor's fees. Mr Dickson said that as the rent was now not being paid, that was causing an issue for him. He said that his mortgage was interest only. He said that he did not own other rental properties. Mr Dickson told the Tribunal that the Respondent lived alone in the Property. He said that the Respondent had recently become self-employed. He said that the rent had not gone into arrears as a result of a delay in payment of benefits. Mr Dickson said that he had tried to be supportive of the Respondent but he needed a tenant in place who would pay the rent. He said that his intention was to re-let the Property.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 12 January 2008.
2. The Respondent had signed the form AT5 on 12 January 2008.
3. The tenancy was for the period 12 January 2008 to 12 June 2008 and continued month to month thereafter.
4. A Notice to Quit was served on the Respondent on 25 August 2022 stating that the tenancy would terminate on 12 January 2023.
5. A Notice in terms of Section 33 of the 1988 Act was served on the Respondent on 25 August 2022 stating that possession of the property was required on 12 January 2023.
6. The tenancy reached its *ish* on 12 January 2023 and is not continuing by tacit relocation.
7. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy. The Tribunal noted that a Section 33 Notice and Notice to Quit had been served on the Respondent giving two months' notice that the Applicant required possession of the Property. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal grants an Order for possession of 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.

Joan Devine

Legal Member

Date : 10 May 2023