



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/23/0647

Property: 43 Stonebank, Ladywell, Livingston, West Lothian EH54 6HG ("Property")

Parties:

Gordon Menzies, 11 MacLean Terrace, Blackridge, West Lothian EH48 3SJ ("Applicant")

Anne Marie McBeth and Graham Apsley, 43 Stonebank, Ladywell, Livingston, West Lothian EH54 6HG ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Leslie Forrest (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 27 November 2015; AT5 dated 10 October 2015; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 12 December 2022 addressed to the Respondent; Royal Mail proof of delivery on 19 December 2022; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 28 February 2023 and sheriff officer certificate of service of the application on 12 April 2023.

Case Management Discussion ("CMD")

A CMD took place on 15 May 2023. The Applicant and Ms McBeth were in attendance. The Applicant told the Tribunal that he sought recovery of possession of the Property

as he required to carry out refurbishment works. He said there had been a serious problem with the downstairs toilet. He said there was a few years' worth of waste in the solum. He said the works were such that the toilet would be out of use for about a month. He said that the flooring needed to be replaced as did the internal and external doors. He said that the bathroom needed to be replaced and the conservatory needed to be removed. The Applicant said that once the works were completed, he would either sell or re-let the Property.

Ms McBeth told the Tribunal that she did not oppose the application. She said that she lived in the Property with her three children aged 20, 18 and 14. Her partner lived with her along with three of his grandchildren aged 10, 8 and 3. She said that she understood the extent of the work that needed to be undertaken. She said that her youngest child attended the local school. She said that her partner's grandchildren were under the care of social services and were taxied to their school. She said that she had been in touch with the local authority and had been allocated a housing options officer. She had been told that she required to go through the current process to have a definite date for eviction. The local authority had told her she would be housed in temporary accommodation and then permanent accommodation. She said that the Property needed a lot of work and it was best for her family to move on.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 27 November 2015.
2. The Respondent had signed the form AT5 on 10 October 2015.
3. The tenancy was for the period 28 November 2015 to 25 May 2016 and continued month to month thereafter.
4. A Notice to Quit dated 12 December 2022 was served on the Respondent on 19 December 2022 stating that the tenancy would terminate on 28 February 2023.
5. A Notice in terms of Section 33 of the 1988 Act dated 12 December 2022 was served on the Respondent on 19 December 2022 stating that possession of the property was required on 28 February 2023.
6. The tenancy reached its *ish* on 28 February 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 the submissions from both Parties 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.

J Devine

Joan Devine

Legal Member

Date : 15 May 2023