



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/18/2381

Re: Property at 5E Burnbrae Street, Clydebank, G81 5BY (“the Property”)

Parties:

Mr John Renfrew, 23 Shakespeare Avenue, Clydebank, G81 3NB (“the Applicant”)

Miss Julie Catherine Andrew, 5E Burnbrae Street, Clydebank, G81 5BY (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. By application received on 14 September 2018, the Applicant sought an order under Section 33 of the Housing (Scotland) Act 1988 (“the Act”) for possession of the Property on termination of a Short Assured Tenancy. The application was made in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. On 1 October 2018, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance in respect of the application in terms of Rule 9 of the Regulations.
3. A Case Management Discussion (“CMD”) was fixed for 12 November 2018 and intimation of same given to the parties. Notification of the date and time of the CMD, together with a copy of the application and supporting

documentation was served on the Respondent by Sheriff Officer on 24 October 2018. No written representations were received from or on behalf of the Respondent.

Case Management Discussion

4. The CMD took place on 12 November 2018 before the Legal Member ("the Tribunal"). The Applicant was present and accompanied by Ms June Beattie, who advised that she was there in the capacity of supporter and took no part in the proceedings.
5. The Tribunal explained the purpose of the CMD and the power of the Tribunal to determine the application at the CMD, if appropriate. The Tribunal referred to the documentation submitted in support of the application and asked the Applicant some questions.
6. The Applicant confirmed he was seeking an order for possession of the Property in terms of his application and that he had received no communication from the Respondent in response to the application. He does not know if she is still residing at the Property.
7. The Tribunal advised that the application was in order and that the order sought would be granted.

Findings in Fact

8. The Applicant is owner and landlord of the Property. The Respondent is the tenant.
9. The Property is let to the Respondents by virtue of a Short Assured Tenancy which commenced on 6 December 2013. The initial term of the lease was 6 months, until 6 June 2014, and thereafter continued monthly.
10. The Applicant ended the contractual tenancy by serving a Notice to Quit dated 20 June 2018, specifying an ish date of 6 September 2018, which was an ish date in terms of the lease. A Section 33 Notice, also dated 20 June 2018, was also served, specifying that the landlord required vacant possession on 6 September 2018. Both notices were in the correct form, provided sufficient notice and were served validly on the Respondent by Sheriff Officer on 22 June 2018.
11. No opposition to the order being granted or other representations had been made by the Respondent.

Reasons for Decision

12. Having regard to the overriding objective that proceedings must be dealt with justly, the Tribunal determined that, in the circumstances of this case and

having regard to Rules 17 and 18 of the Regulations, this case could be determined at the CMD and did not require to be continued to a Hearing.

13. Section 33 of the Act states that an order for possession shall be granted by the Tribunal if satisfied that (a) the short assured tenancy has reached its ish; (b) that tacit relocation is not operating;(c) that no further contractual tenancy is in existence and (d) that the landlord has given to the tenant notice stating that he requires possession of the house.
14. The Tribunal was satisfied that the requirements of Section 33 of the Act had been met and that the application for possession should accordingly be granted.

Decision

15. The order for possession was 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.

Nicola Weir

Legal Member/Chair

12 November 2018
Date

