



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/20/0047

Re: Property at 11 Southfield Road, Blackwood, ML11 9SA (“the Property”)

Parties:

Mrs Heather MacLeod, c/o Harper MacLeod LLP, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD (“the Applicant”)

Ms Jennifer Anderson, 11 Southfield Road, Blackwood, ML11 9SA (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property at 11 Southfield Road Blackwood ML11 9SA be made in terms of s33 of the Housing (Scotland) Act 1988.

1. This was a case management discussion ‘CMD’ regarding an application in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s33 of the Housing (Scotland) Act 1988, ‘the Act’, to possession on the expiry of a short assured tenancy. The case was conjoined with an application (tribunal reference CV/19/2456) in terms of rule 70 to recover rent arrears.
2. The applicant attended and was represented by Mr Johnston solicitor. The respondent did not attend and was not represented. The tribunal was satisfied that the respondent knew about today’s CMD as she was present at the CMD for the rule 70 application on 22 January 2020 when today’s date was fixed. Sheriff Officers served this application by depositing at the property on 22 January 2020.

The tribunal was satisfied that the respondent had appropriate notice in terms of rule 24.

3. The tribunal proceeded with the application in terms of rule 29 in the respondent's absence as it was satisfied that it was fair and just to do so.
4. The tribunal had before it the following copy documents:
 - (i) Application dated 8 January 2020 and received by the tribunal on 9 January 2020.
 - (ii) Short Assured Tenancy agreement between Mc Donald Letting and Respondent dated 1 December 2011 for let of the property from 21 December 2011 until 21 June 2012.
 - (iii) AT5 dated 1 December 2011.
 - (iv) S33 notice dated 9 October 2019 with a termination date of 21 December 2019.
 - (v) Notice to quit dated 9 October 2019 with an ish date of 21 December 2019.
 - (vi) Sheriff Officer's execution of service of s33 notice and notice to quit dated 9 October 2019.
 - (vii) Land certificate.
 - (viii) Email from applicant's solicitor explaining the position regarding the 3 owners of the property.

Discussion.

5. Mrs MacLeod explained that when the tenancy agreement was executed in 2011 she was acting as Attorney for her mother who died in 2015. She has always acted as the landlord and no formal letter was sent to the respondent when her mother died in 2015. She and her 2 sons now own the property and all 3 are registered landlords. Around 18 months ago the letting agent sold the company and difficulties have arisen as a result.
6. The tribunal noted that the s11 notice lodged with the application does not conform to the required wording of the Notice to Local Authorities (Scotland) Regulations 2008. The tribunal was not minded to grant the eviction sought until the correct notification had been carried out. The tribunal adjourned for a short time for this to be done. Mr Johnston exhibited an email confirming that the correct notification had been done and the tribunal accepted the position.

7. Findings in fact

- (1) The applicant is one of 3 owners of the property.
- (2) The applicant's deceased mother owned the property until her death in 2015.

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- (3) The respondent entered into a short assured tenancy with the letting agent McDonald Leasing for let of the property from 21 December 2011 until 22 June 2013.
- (4) The lease continued by tacit relocation.
- (5) The respondent was served with a valid notice to quit and s33 notice on 9 October 2019 with an ish date of 21 December 2019.
- (6) The short assured tenancy has reached its ish.
- (7) Tacit relocation is not operating.
- (8) No further contractual tenancy is ibn existence.
- (9) Notification to the local authority required in terms of s11 of the Homelessness etc. (Scotland) Act 2013 has been carried out.

8. Reasons

The tribunal was satisfied that there was sufficient information before it today to make a decision and the procedure had been fair. The tribunal was satisfied that the tenancy had come to an end and granted the mandatory order sought.

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.

Lesley Ward

25 February 2020

Lesley A Ward Legal Member

Date