

Housing and Property Chamber
First-tier Tribunal for Scotland



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/18/0303

Re: Property at 9 Largie Road, Glasgow, G43 2RE (“the Property”)

Parties:

KJ Ventures Ltd (In Administration), c/o Cairn Letting, 34 Gibson Street, Glasgow, G12 8NX (“the Applicant”)

Mr Daniel Sean Devine, Ms Melodie Moti 9 Largie Road Glasgow G43 2RE (“the Respondents”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property at 9 Largie Road Glasgow G43 2RE be granted in terms of s33 of the Housing (Scotland) Act 1988.

This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017, ‘the rules’ and in terms of s33 of the Housing (Scotland) Act 1988, ‘the Act’. The application was made by Mr John Di Paola of Ascent Legal Scotland on 7 February 2018 on behalf of KL Ventures Limited (In Administration). (As noted in the summary of the case management discussion of 10 April 2018, the Tribunal Administration erroneously assigned two case numbers and two files for the same application. Case number 0264 shall be disregarded as it was issued in error). The application seeks an order for recovery of possession of the property at 9 Largie Road Glasgow G43 2RE from Miss Melodie Moti and Mr Sean Devine.

A first case management discussion held on 10 April 2018 was adjourned to today's date to enable the applicant's solicitor to obtain the landlord's registration number and for Mr Devine to arrange to be present at the hearing.

The tribunal had before it the following copy documents:-

1. Tenancy agreement dated 22 June 2016.
2. AT 5 form dated 22 June 2016.
3. Notice to quit dated 19 July 2017.
4. S33 notice dated 19 July 2017.
5. Execution of service of items 3 and 4 by sheriff officer dated 21 July 2017.
6. Execution of service of application and papers and details of case management discussion on respondents dated 13 March 2018.

Case management discussion

The applicant's solicitor and the respondents attended today's case management discussion. Mr Di Paola lodged the landlord registration number (564796/260/01081) He previously provided evidence of the registration by way of a screenshot of the Glasgow City Council website. The tribunal was satisfied that the evidence of landlord registration has been provided.

The respondents were seeking details of when the order would be executed as they understood that they had no defence to the application. The tribunal stated that if the order is granted today and written reasons are prepared today the order cannot be enforced until the 30 day appeal period expires, ie after 26 May 2018.

Findings in fact

The tribunal finds in fact that :-

1. The applicants are the owners and the landlords of the property at 9 Largie Road Glasgow G43 2RE.
2. The applicants entered into a short assured tenancy with the respondents on 22 June 2016 until 22 December 2016 and on a monthly basis thereafter.
3. The applicants served an AT 5 form on the respondents on 22 June 2016 which was signed by respondents before the tenancy agreement was executed.
4. The applicant served a valid notice to quit on the respondents by sheriff officer on 21 July 2017.
5. The notice to quit was dated 19 July 2017 and required recovery of possession of the property by 22 September 2017.
6. The applicants served a valid s33 notice on the respondents by sheriff officer on 21 July 2017.
7. The s33 notice required the respondents to provide vacant possession of the property by 22 September 2017.
8. The applicants provided the appropriate notice to the local authority on 4 February 2018.

9. The respondents continue to reside in the property at 9 Largie Road Glasgow G43 2RE.

Reasons

This is an application in terms of s33 of the Act. The tribunal carefully considered the written documentation lodged and the terms of s33 of the Act. The tribunal is satisfied that the short assured tenancy was validly constituted and has reached its end: The notice to quit dated 19 July 2017 and requiring the respondents to leave by 22 September 2017 was served on 21 July 2017 by sheriff officer. The tribunal is satisfied that although the respondents have continued to reside in the property and appear to have continued to pay rent, no further contractual tenancy is in existence. The tribunal is satisfied that the s33 notice served by sheriff officer on 21 July 2017 and requiring the respondents to leave the property by 22 September 2017 was valid. The tribunal is satisfied that the respondents continue to occupy the property and that they have no defence to the application. The tribunal accordingly granted the application and made an order for possession.

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 A Ward Legal Member/

25 April 2018