



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/18/0572

Re: Property at Kilphin House, Glenapp Estate, Ballantrae, Girvan, KA26 0NY ("the Property")

Parties:

Mr Clive Wilson, Mrs Denise Wilson, Tivoli House, Perth Road, Abernethy, PH2 9LW ("the Applicants")

Mr Walter Haddow, Mrs Eileen Haddow, Kilphin House, Glenapp Estate, Ballantrae, Girvan, KA26 0NY ("the Respondents")

Tribunal Members:

Lesley Ward (Legal Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) "the tribunal" determined that an order for possession of the property at Kilphin House Glenapp Estate Ballantrae Girvan KA26 0NY be granted.

The tribunal granted an order for possession of the property at Kilphin House Glenapp Estate, Ballantrae Girvan KA26 0NY 'the property' in terms of s33 of the Housing (Scotland) Act 1988 as the tribunal is satisfied that terms of s33(1) of the Housing (Scotland) Act 1988 have been met.

This is an application in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, 'the tribunal rules'. The application was made by Mr Robert Cherry of CKD Galbraith LLP on behalf of Mr and Mrs Clive Wilson, the owners of the property. The tribunal had before it the following copy documents:-

1. Application dated 8 March 2018 and received by the tribunal on that dated.
2. Copy tenancy agreement between Mr and Mrs Wilson and Mr Walter and Mrs Eileen Haddow dated 14 November 2014.
3. AT5 dated 14 November 2014.
4. S33 notice incorporating notice to quit dated 30 August 2017.

5. S11 notice dated 8 March 2018.
6. Land certificate.

The tribunal had sight of the execution of service of today's case management discussion on the respondents by sheriff officer dated 1 May 2018.

Case management discussion

The respondents did not attend the case management discussion. The applicants were represented by Mr Cherry. The tribunal was satisfied that the respondent knew about today's hearing. The respondent Mrs Haddow contacted the tribunal administration on 30 May 2018 by email stating that she was unable to attend due to ill health. She requested that today's discussion be postponed. She also stated that she was in discussion with the owner and was looking to purchase the property.

Mr Cherry was seeking an order today. He also stated that there were considerable arrears due from the respondents and his clients were seeking to recover possession of the property.

The tribunal required sight of the recorded delivery slip from 30 August 2017 when the s33 notice on the notice to quit was sent to the respondents. The tribunal adjourned for a short time to enable this to be produced. When the tribunal reconvened Mr Cherry produced an email on his mobile phone which had copies of the two recorded delivery slips as evidence of service of the s33 notice and notice to quit on 30 August 2017.

Findings in fact

The tribunal finds in fact that:-

1. The applicants are the owners of the property.
2. The applicants entered into a short assured tenancy with the respondents in December 2014 for a period of three years from 19 December 2014 until 19 December 2017.
3. An AT 5 form was served by the applicants on 14 November 2014 and signed by the respondents on that date.
4. The applicants served a valid s33 notice and notice to quit on the respondents on 30 August 2017 to bring the tenancy to an end at the ish of 19 December 2017.
5. The short assured tenancy has reached its ish.
6. Tacit relocation is not operating.
7. No further contractual tenant is in existence.

Reasons

This is an application to recover possession of a short assured tenancy which has reached its ish. The tribunal considered the documents lodged carefully. The tribunal also considered the request by Mrs Haddow to adjourn the case management discussion. The tribunal considered the terms of s33 of the Act. The tribunal is

satisfied on the basis of the documents produced with the application and the production of the recorded delivery slip that the grounds for possession are met and there is no defence to the application. In accordance with the tribunal's overriding objective to proceed justly, avoid delay so far as compatible with the proper consideration of the issues, the tribunal decided that no purpose would be served by adjourning consideration of the application. Accordingly the tribunal granted the application.

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

Legal Member/Chair

LESLEY ANN WARD

31/5/18

Date

Post Office Ltd.
CERTIFICATE OF POSTING

Prestwick
24 The Cross
Prestwick
Ayrshire
KA9 1AL

Posting date: 30/08/2017 17:01
Session ID: 3-463219
After last acceptance time? N

Destination Country: UK (EU)
Address Validated? N
Signed For 1st Letter: £1.65
Weight: 0.050 Kg
Prepaid Amount: -£1.65

Reference number
KK347507868B

Building Name or Number: KILPHIN
Postcode: KA260NY

Delivery aim: next working day. Proof of delivery and signature available online

PLEASE REFER TO SEPARATE TERMS AND CONDITIONS

For information about Royal Mail services or if you purchased a service that offers tracking, proof of delivery with signature or online delivery confirmation, please visit www.royalmail.com

PLEASE RETAIN AS YOUR PROOF OF POSTING
This is not a financial receipt
Thank You

Post Office Ltd.
CERTIFICATE OF POSTING

Prestwick
24 The Cross
Prestwick
Ayrshire
KA9 1AL

Posting date: 30/08/2017 17:01
Session ID: 3-463220
After last acceptance time? N

Destination Country: UK (EU)
Address Validated? N
Signed For 1st Letter: £1.65
Weight: 0.050 Kg
Prepaid Amount: -£1.65

Reference number
KK3475079868B

Building Name or Number: KIL
Postcode: KA260NY

Delivery aim: next working day. Proof of delivery and signature available online

PLEASE REFER TO SEPARATE TERMS AND CONDITIONS

For information about Royal Mail services or if you purchased a service that offers tracking, proof of delivery with signature or online delivery confirmation, please visit www.royalmail.com

PLEASE RETAIN AS YOUR PROOF OF POSTING
This is not a financial receipt
Thank You

