



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/22/1302

Re: Property at 9 Clayknowes Place, Musselburgh, East Lothian, EH21 6UG (“the Property”)

Parties:

Ms Elizabeth Cunningham, 70 Denholm Road, Musselburgh, EH21 6TU (“the Applicant”)

Ms Lee Buchan, 9 Clayknowes Place, Musselburgh, East Lothian, EH21 6UG (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.

Background

The Applicant seeks an Eviction Order on the basis of s 33 of the Housing (Scotland) Act 1988. The Application is accompanied by the Short Assured Tenancy between the parties, the s33 Notice and Notice to Quit together with the notice provided to the Local Authority under s11 of the Homelessness (Etc) (Scotland) Act 1988.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 2pm on 28 July 2022. The Applicant was represented by Ms Kirsty Donnelly of TC Young Solicitors. There was no appearance by or on behalf of the Respondent. The Application and information about how to join the conference call had been served on the Respondent by Sheriff Officers on 15 June 2022. The Tribunal decided to proceed in the Respondent's absence.

Having considered the Application and having heard from Ms Donnelly, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a short assured tenancy agreement in respect of the Property that commenced on 8 April 2014;*
- II. *The Applicant was the landlord and the Respondent was the tenant;*
- III. *The Applicant wishes to retire from being a landlord and exit the private rental sector. The Applicant is in her seventies and has health issues and does not wish to continue to be a landlord. The Applicant wishes ultimately to sell the Property and use the proceeds to assist in funding her and her own husband's retirement. The Applicant's husband would then be better able to focus on caring for the Applicant.*
- IV. *The Applicant competently served a notice to quit and a notice under s 33 of the Housing (Scotland) Act 1988 on the Respondent by Sheriff Officers on 20 October 2022;*
- V. *The Applicant has also served a notice under s11 of the Homelessness (Etc) (Scotland) Act 2003;*
- VI. *The notice to quit tied in with the ish date of the tenancy and the Respondent was provided with the statutory minimum period to remove herself from the Property;*
- VII. *The Respondent has failed to vacate the Property and ceased paying rent from the date of receipt of the notices that were served;*
- VIII. *The Respondent has not engaged with the Tribunal process or submitted any representations as to why the Application should not be granted;*
- IX. *The Respondent is understood to be a woman in her forties with a daughter in her twenties. There is nothing to suggest that the Respondent has any particular health difficulties which might otherwise be relevant to considering the reasonableness or otherwise of granting the Application;*
- X. *There is nothing before the Tribunal to suggest that it is not reasonable to grant the order;*

Decision

Having made the above findings in fact, the Tribunal decided to grant the Application and made an Eviction Order.

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.

Andrew McLaughlin

Legal Member/Chair

Date: 28 July 2022