

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/18/2218

Re: Property at 13 Cairnlea Gardens, Bellshill, ML4 2JN (“the Property”)

Parties:

Miss June Scarbrough, c/o Your Move, 169 Main Street, Bellshill, ML4 1AH (“the Applicant”)

Ms Chantelle Smith, 13 Cairnlea Gardens, Bellshill, ML4 2JN (“the Respondent”)

Tribunal Member:

Nicola Irvine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

The Applicant submitted an application seeking an order to evict the Respondent from the property at 13 Cairnlea Gardens, Bellshill, ML4 2JN. The Tribunal intimated the application to the parties by letter of 24th October 2018 and advised them of the date, time and place of today’s case management discussion. The Respondent was invited to make written representations by 12th November. The parties were also told that they required to attend the case management discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair.

The Case Management Discussion

The Applicant was represented by Ms Mathieson. The case management discussion proceeded in the absence of the Respondent. Ms Mathieson advised that Ms Smith

has not been in contact with her office or the Applicant since the raising of these proceedings. Ms Mathieson advised that the Applicant seeks to rely upon Section 33 of the Housing (Scotland) Act 1988. The Applicant's position was that the conditions set out in Section 33 of the Act have been met and the short assured tenancy terminated at the ish.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 29th January 2015. The period of the tenancy was from 29th January 2015 to 28th July 2015. Thereafter, the tenancy continued on a monthly basis.
2. The rent payable was £395 per calendar month, payable in advance.
3. The Applicant's agent served notice on terms of Section 33 of the Housing (Scotland) Act 1988 on 18th May 2018 indicating that the Applicant required possession of the property with effect from 28th July 2018.
4. The Applicant's agent served a Notice to Quit on 18th May 2018 indicating that the Respondent required to remove from the property by 28th July 2018.
5. The short assured tenancy had reached its ish.
6. Tacit relocation was not operating.
7. No further contractual tenancy is in operation.
8. The Applicant is entitled to the Order sought for repossession.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it. The Respondent was given an opportunity to provide written representations to the Tribunal; she failed to do so and she failed to attend the case management discussion. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Section 33 of the Act. The notice had been properly served. The Tribunal was satisfied that conditions of Section 33 had been met. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by

upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

N Irvine

Legal Member/Chair

15th November 2018

Date