



Decision 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/19/0047

Re: Property at flat 2L, 68 West Princes Street, Helensburgh G84 8UG (“the Property”)

Parties:

Mr Allan Young and Mrs Tina Young, La Roche Restoux, 50140 Saint Clement Rancoudray, France (“the Applicants”)

represented by Julie Ross, Raeburn Hope, solicitors, 77 Sinclair Street, Helensburgh G84 8TG

(1) Kelly-Ann Cran, and (2) David Neil Stevenson, both residing at 2L, 68 West Princes Street, Helensburgh G84 8UG (“the Respondents”)

Tribunal Member:

David Bartos (Legal Member)

Summary of Discussion

1. The Applicants were represented by Julie Ross of Raeburn Hope at the case management discussion on 8 March 2019 at 11.30 a.m. The discussion took place at the Glasgow Tribunal Centre, 20 York Street, Glasgow. There was no appearance by or on behalf of the Respondents. The Tribunal noted that notification of the case management discussion had been given to the Respondents in a letter from the Tribunal dated 14 February 2019 which had been served on each of them by sheriff officers on 15 February 2019. No explanation had been given by the Respondents for their non-attendance at the discussion. In all the circumstances the Tribunal was satisfied that the Respondents had been given sufficient opportunity to participate in the case management discussion. No written representations had been received by the Tribunal from the Respondents.

2. The following facts were not in dispute between the parties:

- (i) The Applicants are owners of the Property under title number DMB38386. The Respondents entered into a short assured tenancy of the Property with Applicants dated 5 September 2017. The Respondents had received the AT5 Form before entering into the tenancy.
- (ii) Following 5 March 2018 the tenancy had become a month long short assured tenancy with the ish being the 5th day of each month.
- (iii) On 30 October 2018 the Respondents received a notice from Applicants' letting agents Raeburn Hope on behalf of the Applicants given under section 33(1) of the 1988 Act. The notice was dated 24 October 2018 and complied with the requirements of section 33.
- (iv) The Notice to Quit dated 24 October 2018 from Raeburn Hope addressed to the Applicants is in legally compliant form. It required the Respondents to remove from the Property by 5 January 2019 being an ish of the tenancy. It was also served on the Respondents on 30 October 2018.
- (v) The tenancy came to an end on 5 January 2019. It did not tacitly relocate (re-lease).
- (vi) A notice under section 11 of the Homelessness etc (Scotland) Act 2003 had been served on behalf of the Applicants on Argyll and Bute Council.

The Applicant's representative submitted that the requirements of section 33(1) of the 1988 Act had been satisfied. The notices necessary by virtue of section 33(1) had been served on the Respondents. She requested an order for possession.

The Tribunal considered the application form, the oral submission of the Applicant's representative and the documentary evidence submitted by the Applicant's representative. It found that it was able to make sufficient findings in fact and that to do so was not contrary to the interests of the parties. It was therefore able to decide the case without a hearing.

The Tribunal was satisfied that evidence had been produced to support the findings in fact set out above. No doubt was cast on that evidence. In those circumstances the Tribunal found that section 33(1) of the 1988 Act had been complied with and that it had no discretion but to grant the order sought without continuation to a further hearing. It could see no benefit to be gained from a further hearing which would cause further delay.

Outcome

The First-tier Tribunal for Scotland (Housing and Property Chamber) orders the Respondents to remove themselves from and to give up possession of the Property in favour of the Applicants.

NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.

D.Bartos

Legal Member

8 March 2019

Date