

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/18/1523

Re: Property at 302 Meadowside Quay Walk, Glasgow, G11 6AX (“the Property”)

Parties:

Mr Paramjit Samra, 34 Moorfoot Way, Bearsden, Glasgow, G61 4RL (“the Applicant”)

Mr Kossi Messan, 302 Meadowside Quay Walk, Glasgow, G11 6AX (“the Respondent”)

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 302 Meadowside Quay Walk Glasgow G11 6AX be made on termination of the short assured tenancy, in terms of s33(1) of the Housing(Scotland) Act 1988 “the Act”.

This is a case management discussion in connection with an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, “the Rules” to recover possession of the property at 302 Meadowside Quay Walk Glasgow G11 6AX on the basis of termination of a short assured tenancy. The application was made on 15 June 2018 by Mr Hugh McCartney of Mc Cartney Stewart Solicitors on behalf of the landlord Mr Paramjit Samra.

Mr Samra attended the tribunal hearing today with his son Mr Charandeep Samra as his supporter. Mr Kossi Messan tenant and respondent also attended.

The tribunal had before it the following copy documents:-

Lesley Ward

1. Application dated 15 June 2018 and received by the tribunal on 18 June 2018.
2. Tenancy agreement dated 30 March 2012.
3. AT5 dated 30 March 2012.
4. Notice to quit dated 23 March 2018.
5. S33 notice dated 23 March 2018.
6. S11 notice to local authority dated 15 June 2018.
7. Royal mail proof of delivery dated 24 March 2018 for item GQ15577132GB
8. Certificate of posting dated 23 March 2018 for item GQ15577132GB.
9. Sheriff Officer's execution of service of the application and case management discussion on respondent dated 17 August 2018.

Discussion

Both parties attended the hearing and were unrepresented. The applicant's son assisted him in making his submissions to the tribunal.

The respondent stated that he had emailed the tribunal around 29 August 2018 explaining that he had contacted the applicant's agents to make an order to pay the rent arrears by paying rent plus £300 per month to enable the arrears to be cleared. The tribunal sitting today explained that the application before the tribunal today is for possession on the expiry of the short assured tenancy agreement and not in relation to the arrears. The application may have been made because of arrears but an agreement regarding arrears is not a defence to the application.

The applicant was invited to comment on an agreement regarding the arrears. The applicant made it clear that he was insisting on his application today and would be making a separate application regarding the arrears. He requires possession of the property as he is struggling to pay the mortgage due to the rent arrears.

This being the case, the tribunal then discussed the various documents lodged with the application with the respondent. The respondent did not dispute that he entered into a short assured tenancy agreement with the landlord on 30 March 2012. He did not dispute that he received the notice to quit and s33 notice by recorded delivery on 24 March 2018 and when presented with a copy of the proof of delivery slip with a signature which stated it was signed for by "K Messan" he did not dispute that it was his signature.

Findings in fact

- The tribunal is satisfied that the s33 notice and notice to quit are valid.
- The tribunal is satisfied that the tenancy reached its end on 1 June 2018 and tacit relocation is not operating.
- The tribunal is satisfied that the tenancy agreement is a short assured tenancy for the initial period 30 March 2002 until 1 October 2012.

Lesley Ward

- The tribunal is satisfied that the tenancy agreement provides for the tenancy agreement continuing on a month to month basis until it is brought to an end by either party.
- The tribunal is satisfied that the notice to quit and s33 notice provide for an ish date of 1 June 2018.
- The tribunal is satisfied that the respondent received the notice to quit and s33 notice on 24 March 2018.
- The tribunal is satisfied that the s33 notice complies with s33(2) of the Act as it gives 2 months written notice.
- The tribunal is satisfied that the appropriate notice has been given to the local authority in terms of s11 of the Homelessness Etc Act 2003.
- The tribunal is satisfied that no further contractual tenancy is in existence.

Reasons

The tribunal is satisfied that it has sufficient information before it today to make a decision. The tribunal is also satisfied that the procedure has been fair. Both parties were given time to make their case and all of the documents before the tribunal were in support of the application. The respondent was hopeful of reaching agreement with the applicant regarding the arrears but on the basis of the application before the tribunal today the respondent has no defence to the application. He did not dispute that the papers were received by him. In accordance with the overriding objective the tribunal granted the order sought.

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

Lesley A Ward Legal Member/Chair

Date 6 September 2018.