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Croydon LBC v Kalonga [2022] UKSC 7

Kelvin Rutledge QC, Riccardo Calzavara

22 March 2022

Housing Act 1985, s.82



(1) A secure tenancy which is either—

(a) a weekly or other periodic tenancy, or

(b) a tenancy for a term certain but subject to termination by the landlord,

cannot be brought to an end by the landlord except as mentioned in subsection (1A).

(1A) The tenancy may be brought to an end by the landlord—

(a) obtaining—

(i) an order of the court for the possession of the dwelling-house, and

(ii) the execution of the order,

(b) obtaining an order under subsection (3), or

(c) obtaining a demotion order under section 82A.

(2) In the case mentioned in subsection (1A)(a), the tenancy ends when the order is executed.

(3) Where a secure tenancy is a tenancy for a term certain but with a provision for re-entry or forfeiture, the court shall not order possession of the dwelling-house in pursuance of that provision, but in a case where the court would have made such an order it shall instead make an order terminating the tenancy on a date specified in the order and section 86 (periodic tenancy arising on termination of fixed term) shall apply.

(4) Section 146 of the Law of Property Act 1925 (restriction on and relief against forfeiture), except subsection (4) (vesting in under-lessee), and any other enactment or rule of law relating to forfeiture, shall apply in relation to proceedings for an order under subsection (3) of this section as if they were proceedings to enforce a right of re-entry or forfeiture.

Housing Act 1985, s.82



A secure tenancy which is... a tenancy for a term certain but subject to termination by the landlord, cannot be brought to an end by the landlord except... by the landlord (a) obtaining an order of the court for the possession of the dwelling-house, and the execution of the order, (b) obtaining an order under subsection (3), or obtaining a demotion order under section 82A

Issues



1. What did the words “subject to termination by the landlord mean”?
2. How can an authority recover possession of property let under a fixed-term tenancy during the term?
3. Did the subject tenancy agreement contain a forfeiture clause?

Croydon's terms & conditions



"We will not hesitate to take action against tenants who deliberately fail to observe the conditions of tenancy. Such action will, where appropriate, include seeking possession or the home, obtaining an injunction to stop the antisocial behaviour or harassment, or using any other legal remedies. This could result in you and your family being evicted from your home."

"Following the review we will take action to end your tenancy and repossess the property if: you have not kept to any of the conditions of the tenancy;...

We may also take eviction action at any time if one or more of the grounds for possession set out in Schedule 2 of these conditions apply."

"We may end a secure tenancy by first serving a notice of seeking possession and applying to the court for a possession order..."

We may seek possession if... you break any of the clauses of this agreement, or if any of the grounds in Schedule 2 of the Housing Act 1985 as amended by the Housing Act 1996, or for any other ground that is made law and applies in the future, are breached. A summary of the grounds is set out in Schedule 2 at the end of this booklet. The number follow the numbering used by the Housing Act 1985."

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