

**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/26/1531**

**Re: Property at 12 South Chesters Lane, Bonnyrigg, EH19 3GL (“the Property”)**

**Parties:**

**Maureen Hood, John Hood, 14 Maryfield Place, Bonnyrigg, EH19 3BQ (“the Applicants”)**

**Danielle Wilkie, Chris Woods, 12 South Chesters Lane, Bonnyrigg, EH19 3GL (“the Respondents”)**

**Tribunal Members:**

**Julie McKinlay (Legal Member) and Robert Buchan (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the order sought for recovery of possession of the Property.**

**Background**

1. The Applicants submitted an application under Rule 66 of the Housing and Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the Property.
2. A Convenor of the Housing and Property Chamber (HPC) having delegated power for the purpose referred the application under Rule 9 of the Rules of a case management discussion (“CMD”).
3. A CMD was set to take place on 21 August 2026, and appropriate intimation of the hearing was given to all parties.

## **The Case Management Discussion**

1. The CMD took place by conference call. The Applicants were represented by Ms. Alexandra Wooley of Bannatyne Kirkwood France & co and were not present. The Respondents did not attend the CMD. The Tribunal was satisfied that the Respondents had been served with the papers by Sheriff Officers on 21 July 2026. The Tribunal decided to proceed with the CMD in the absence of the Respondents. The Tribunal was satisfied that the requirements of Rule 24 (1) regarding the giving of notice of a hearing had been complied with and proceeded with the Case Management Discussion in terms of Rule 29 of the 2017 Rules. The Tribunal explained the purpose of the CMD.
4. As the Respondents did not attend the CMD the Tribunal had no information as to the position of the Respondents in respect of the application for eviction. The Tribunal asked questions of the Applicants' representative. In the papers there was a short-assured tenancy which commenced on 25 August 2017. The Applicants had also produced a series of lease agreements from the ish date of the first lease on 24 August 2018 until 25 August 2025. While the Applicant's representative accepted that a new short-assured tenancy could not be entered into after 1 December 2017, in terms of the Private Housing (Tenancies) (Scotland) Act 2016 (Commencement No 3, Amendment Saving Provision and Revocation) Regulations 2017/346 regulation 6, section 33 of the Housing (Scotland) Act 1988 continues to apply. As such there is a short-assured tenancy between the parties.
5. The Applicants' representative confirmed that the Notice to Quit and section 33 Notice were sent to the respondents in the same envelope giving two months' notice.
6. The Applicants' representative advised the Tribunal that the Applicants were in their 70's. They owned two properties in addition to their own home. Their son lived in one and the Property was the other. They wished to sell it and cease to be landlords. The Respondents were in arrears of rent in the sum of £13500. The Applicants had been unable to make contact with the Respondents for at least a year although they believed they were still in the Property. No reason has been given to the Applicants for non-payment of the rent. There is no mortgage over the Property which is a three-bedroom house.
7. The Respondent has three children although their ages are unknown to the Applicants. The employment status of the Respondents is also unknown to the Applicants. The Applicants' representative invited the Tribunal to consider that in the event of the order being granted the local authority would have obligations to the Respondents in respect of housing.

## **Findings in Fact**

8. The Applicants are the owners and landlord of the Property. The Respondents are the tenant of the Property.
9. The tenancy is a short assured tenancy by virtue of section 33 of the Housing (Scotland) Act 1988 and Regulation 6 of the Private Housing (Tenancies) (Scotland) Act 2016 (Commencement No 3, Amendment Saving Provision and Revocation) Regulations 2017/346. The Tenancy was for a period of one year with new contractual tenancies being entered in to until 24 August 2025. The tenancy has continued thereafter on a month-to-month basis following the expiry of the fixed term.
10. The Applicants served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 on the Respondents by special delivery post on 12 September 2025 giving a period of two months' notice to quit.
11. On 2 April 2026 the Applicants applied to the Tribunal for an order for possession based on the operation of section 33.
12. The short assured tenancy had reached its end. Tacit relocation was not operating. No further contractual tenancy was operating.

## **Reason for Decision**

13. The Tribunal was satisfied that it could make relevant findings in fact to reach a decision following the CMD and that to do so would not be contrary to the interest of the parties in this case.
14. The Tribunal proceeded on the basis of the documents lodged and the information provided at the CMD. The Applicants served a notice to quit and a notice in terms of section 33 of the Housing (Scotland) Act 1988. The conditions of section 33 had been satisfied in respect that the tenancy had reached its end, tacit relocation was not operating, and no further contractual tenancy was in operation. The Applicants sought recovery of the Property as they no longer wished to be landlords and the Respondent had not been meeting their obligation to pay rent for at least a year. The Respondents were in arrears in the amount of £13500. The Respondents did not attend the CMD, had chosen not to make any representations to the Tribunal and the Tribunal accordingly had limited information as to their personal circumstances. The Tribunal understood that the Respondents have children but have no other

information. Having taken all of the above into account, the Tribunal was persuaded that it was reasonable to grant an order for eviction.

## **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

# J McKinlay

**Legal Member/Chair**

**Date: 21 August 2026**