



**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/22/1773

Re: Property at Wester Calcots Farmhouse, Elgin, IV30 5PH (“the Property”)

Parties:

**Mr Alistair MacKay, Mrs Louise Mackay, Brackla Farm, Cawdor, Nairn, IV12 5QY
 (“the Applicants”)**

**Mrs Kelly Lynch, Mr Kevin Lynch, Wester Calcots Farmhouse, Elgin, IV30 5PH
 (“the Respondents”)**

Tribunal Members:

Ms H Forbes (Legal Member) and Ms E Williams (Ordinary Member)

Decision (in absence of the Applicants)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be dismissed.**

Background

1. This is an application made under Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicants were seeking an order for possession.
2. The Applicants’ representative and the Respondents were notified by letter dated 19th October 2022 of a Case Management Discussion to take place on 28th November 2022.
3. By email dated 8th November 2022, the Respondents informed the Tribunal they were no longer residing at the Property and would be handing the keys back the following week. The communication was crossed to the Applicants’ representative.
4. By email dated 24th November 2022, the Respondents enquired whether they were required to attend the forthcoming Case Management Discussion, given that the keys had been returned to the Applicants on 14th November 2022. The communication was crossed to the Applicants’ representative.

Case Management Discussion

5. A Case Management Discussion ("CMD") took place by telephone conference on 28th November 2022. The Respondent, Mr Kevin Lynch, was in attendance. The Applicants were not in attendance and were not represented.
6. Mr Lynch confirmed that the Respondents had left the Property and asked why the CMD was taking place in these circumstances. The Tribunal explained that only the Applicants can withdraw an application. In the absence of any communication from the Applicants or their representative, the CMD had to proceed.
7. Mr Lynch said it was a disgrace that the Applicants had not withdrawn the application, wasting his time, and that of the Tribunal.
8. The Tribunal thanked Mr Lynch for taking the time to attend the CMD.

Reasons for decision

9. The Tribunal took into account the representations of the Respondents that the tenancy had now come to an end, and the lack of correspondence from the Applicants or their representative to explain their non-appearance, despite having been notified of the CMD.
10. The Tribunal decided to dismiss the application.

Decision

11. The application is dismissed.

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.

H Forbes

Legal Member/Chair

28th November 2022
Date