



**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/22/0760**

**Re: Property at 65 Gilmour Wynd, Stevenston, North Ayrshire, KA20 4DA (“the  
Property”)**

**Parties:**

**Mr Sean Lennon, Mr Dominic Lennon, 105 Ballylough Road, Castlewellan,  
County Down, Ireland, BT31 9JG; 105 Ballylough Road, Castlewellan County  
Down, Ireland, BT31 9JG (“the Applicants”)**

**Mr Alan Frew, 65 Gilmour Wynd, Stevenston, North Ayrshire, KA20 4DA (“the  
Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision in the 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 First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicants sought an order to evict the Respondent from the property
2. By decision dated 19 April 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicants’ representative on 20 April 2022. The Tribunal intimated the application to the parties by letter of 19 May 2022 and advised them of the date, time and conference call details of

today's case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 9 June 2022. The Respondent lodged written representations by email on 27 June 2022.

### **The case management discussion**

4. The Applicants were represented by Mr Hall. The case management discussion took place by conference call and proceeded in the absence of the Respondent. The Applicants' representative explained that the Applicants requires vacant possession of the property because they intend to sell the property. The Applicants have a portfolio of properties and have sold one property already and another is soon to be marketed for sale. It was submitted that the Applicants have been very patient throughout this tenancy in relation to arrears of rent. The Respondent has been continually in arrears of rent since June 2014. The Applicants' representative advised that the arrears of rent have increased to £6,544.53, the last two payments to the rent account having been made on 30 March and 30 June 2022. The Respondent advised the Applicants' representative that he was in receipt of universal credit but the Applicants were unsuccessful in applying for direct payments to be made in respect of the housing element of universal credit. The Applicants' representative submitted that it was reasonable in all of the circumstances to grant the order for eviction.

### **Findings in Fact**

5. The parties entered into a short assured tenancy which commenced 14 September 2009.
6. The Applicants' representative served the Notice to Quit and Section 33 Notice on the Respondent by sheriff officer on 9 September 2021.
7. The short assured tenancy had reached its ish.
8. Tacit relocation was not operating.
9. No further contractual tenancy is in operation.

### **Reason for Decision**

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Respondent received the notice to quit and section 33 notice almost 10 months ago. The Tribunal was satisfied that the tenancy had been terminated in accordance with section 33 of the Act and that no further tenancy was in operation. The Tribunal took account of the Respondent's personal and financial circumstances as set out in the written representations. However, the Tribunal was persuaded that

on balance, it was reasonable to grant the order evicting the Respondent from the property.

### **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.**

Nicola Irvine

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**Legal Member/Chair**

**4 July 2022**  
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**Date**