



**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 (“The Act”)**

**Chamber Ref: FTS/HPC/EV/23/3718**

**Re: Property at 16 West Harbour Road, Cockenzie, EH32 0HX (“the Property”)**

**Parties:**

**Mr Paul Harrison Adjimah, 85 High Street, Cockenzie, EH32 0DG (“the Applicant”)**

**Mr Andrew Burns, 16 West Harbour Road, Cockenzie, EH32 0HX (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Gordon Laurie (Ordinary Member)**

**Decision**

**[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.**

**Background**

[2] The Applicant seeks an Eviction Order under Section 33 of the Act. The Application is accompanied by: a copy of the tenancy agreement; the notice to quit; the notice under Section 33 of the Act relied upon; proof of service of both notices and the relevant notice under s11 of the Homelessness (etc) (Scotland) Act 2003.

**The Case Management Discussion**

[3] The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 25 January 2024. The Applicant was represented by his wife, Mrs Voy. The Respondent was represented by his wife, Mrs Burns. Neither party had any preliminary

matter to raise. The Tribunal discussed each party's position in respect of the Application. Having heard from parties, the Tribunal made the following findings in fact.

### **Findings in Fact**

- I. *The parties entered into a Short-Assured Tenancy which commenced on 1 November 2009 in terms of which the Property was let to the Respondents;*
- II. *The Applicant competently served a notice under Section 33 of the Act with a Notice to Quit ending the tenancy and calling upon the Respondents to vacate the Property by 30 June 2023;*
- III. *The Respondent has remained in occupation of the Property along with his wife;*
- IV. *The Applicant wishes to sell the Property to release funds to pay off the interest only mortgage on their own. Without these funds, the Applicant would be forced to sell their own home;*
- V. *The Respondent and his wife are model tenants and have lived in the Property since 1 November 2009. They are both in their sixties and work despite having health issues;*
- VI. *The Respondent and his wife have been told that they will receive priority from the local authority housing department in securing alternate accommodation if an Eviction Order is granted.*

### **Reasons for Decision**

[4] Having heard from both parties, the Tribunal considered that the tenancy had been lawfully ended under Section 33 of the Act and that it was reasonable to grant an Eviction Order.

### **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.**



Legal Member/Chair

25 January 2024

Date