



**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/24/1292**

**Re: Property at 86 Glen Tennet, St Leonards, East Kilbride, G74 3UY (“the Property”)**

**Parties:**

**Ronald and Suzanne Kerr, 13 Stratton Drie, Giffnock, G46 7AB (“the Applicants”)**

**Mr Tom Furie, 86 Glen Tennet, St Leonards, East Kilbride, G74 3UY (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Ms J Heppenstall (Ordinary Member)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession should be granted.**

**Background**

1. This is a Rule 66 application received on 18<sup>th</sup> March 2024. The Applicants are seeking an order for possession of the Property. The Applicants’ representative lodged two short assured tenancy agreements between the parties, the first commencing on 19<sup>th</sup> July 2013, and the second commencing on 19<sup>th</sup> July 2017 to 18<sup>th</sup> July 2018 and monthly thereafter. The Applicants’ representative also lodged copy Notice to Quit and section 33 notice together with evidence of posting and delivery, copy section 11 notice with evidence of service, and Form AT5.

**The Case Management Discussion**

2. A Case Management Discussion (“CMD”) took place by telephone conference on 1<sup>st</sup> August 2024. The Applicants were not in attendance, and were represented by Ms Kirsty Donnelly, TC Young. The Respondent was in attendance.
3. Ms Donnelly said the Applicants are seeking an order for possession. They wish to sell the Property due to the fact they are now retired and no longer wish to let the Property. One of the Applicants has health issues and is no longer able

to manage the Property. They had another property for let, which has now been sold. Enquiries were made of the local authority by the Applicants to ascertain whether the local authority might purchase the Property. The local authority was not prepared to purchase with a sitting tenant, and would require that the Property was upgraded. There are some concerns over the condition of the Property in relation to hoarding, smoking and noise concerns. There are no rent arrears.

4. The Respondent indicated that he does not wish to oppose the order. The Respondent does not challenge the submissions made on behalf of the Applicants. The Respondent said he lives alone and is not in employment. He has consulted with an adjacent local authority in respect of social housing and has been told he should not leave the Property until an order for possession has been granted. The Respondent said he has health issues, and he would wish to live closer to family in the adjacent local authority area, as this would assist with his health.
5. The Tribunal adjourned to consider matters.

### **Findings in Fact and Law**

6.
  - (i) The Applicants are the heritable proprietors of the Property.
  - (ii) Parties entered a short assured tenancy agreement commencing on 19<sup>th</sup> July 2013 until 18<sup>th</sup> July 2014.
  - (iii) On 19<sup>th</sup> July 2017, parties entered into a new short assured tenancy running to 18<sup>th</sup> July 2018 and monthly thereafter.
  - (iv) Notice to Quit and Section 33 Notice were served on the Respondent.
  - (v) The short assured tenancy has reached its finish date.
  - (vi) The contractual tenancy terminated on 18<sup>th</sup> December 2023.
  - (vii) Tacit relocation is not in operation.
  - (viii) The Applicants have given the Respondent notice that they require possession of the Property.
  - (ix) It is reasonable to grant the order for possession.

### **Reasons for Decision**

7. Section 33 of the Act provides that the Tribunal may make an order for possession if satisfied that the short assured tenancy has reached its finish, tacit relocation is not operating, the landlord has given notice to the tenant that they require possession, and it is reasonable to make the order.

8. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicants have given the Respondent notice that they require possession of the Property.
9. In considering reasonableness, the Tribunal took into account the circumstances of both parties.
10. The Tribunal was satisfied that the Applicants wish to sell the Property due to their age and health concerns.
11. The Tribunal took into account the circumstances of the Respondent. The Tribunal noted that the Respondent did not wish to oppose the order, and was keen to move to a different area to enable support from family which would assist his health. The Tribunal took into account that the Respondent could not secure social housing in his preferred area without an order for possession.
12. In all the circumstances, the Tribunal considered it reasonable to grant the order.

### **Decision**

13. An order for possession of the Property is granted under section 33 of the Housing (Scotland) Act 1988. The order is not to be executed prior to 12 noon on 4<sup>th</sup> September 2024.

### **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.**

# Helen Forbes

Legal Member/Chair

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**1<sup>st</sup> August 2024**  
**Date**