



**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/24/1523**

**Re: Property at 5 Bankside Gardens, Kilbirnie, KA25 7JA (“the Property”)**

**Parties:**

**Mr David Scott, Birtlebog, Kilbirnie, Ayrshire, KA25 7LJ (“the Applicant”)**

**Mrs Michelle Catterson and Mr Robert Catterson, both 5 Bankside Gardens, Kilbirnie, KA25 7JA (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Jane Heppenstall (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.**

**Background**

1. By application, dated 3 April 2024, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy.
2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 2 August 2013, and copies of a Form AT5 Notice given on 2 August 2013 and of a Notice given under Section 33 of the 1988 Act and a Notice to Quit, both dated 10 January 2024, and both requiring the Respondent to vacate the Property by 1 April 2024.
3. On 8 October 2024, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 29 October 2024. The Respondents did not make any written representations to the Tribunal.

### **Case Management Discussion**

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 13 November 2024. The Applicant was present. The Respondents were also present and were represented by Mr Alistair Meek of Community Housing Advocacy Project, Ardrossan.
5. Mr Meek told the Tribunal that the Respondents were not opposing the application, but were asking that the Order for Possession should not be enforceable for a period of three months, to allow the Respondents time to seek help from the local authority in finding alternative accommodation for them and their family. The Applicant responded that he was content to allow the Respondents the three-month period that they were seeking.
6. The Applicant had also sought an Order for Possession under Ground 14 of Schedule 5 to the 1988 Act, but, at the Case Management Discussion, he withdrew the application insofar as it related to Ground 14

### **Reasons for Decision**

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
8. Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.
9. The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given. The remaining matter for the Tribunal to consider was, therefore, whether it would be reasonable to issue an Order for Possession.
10. In arriving at its decision as to whether it would be reasonable to make an Order for Possession, the Tribunal considered carefully all the evidence before it and noted in particular the fact that the Respondents were represented and had stated that they did not oppose the making of an Order for Possession under Section 33 of the 1988 Act. The Parties were agreed as to the desired outcome of the application, and, accordingly, the Tribunal decided that it would be reasonable to make an Order for Possession of the

Property, with the Applicant not being able to take steps to enforce it for a period of three months from the date of the Tribunal's Decision.

### **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.**

# George Clark

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**Legal Member/Chair**

**13 November 2024**  
**Date**