

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 and Section 18 of the Housing (Scotland) Act 1988.**

**Chamber Ref: FTS/HPC/EV/24/3398**

**Re: Property at 260 Muirfield Drive, Glenrothes, KY6 2PY (“the Property”)**

**Parties:**

**Mr Andrew McIntosh and Mrs Ruth McIntosh, both residing at 24 Braemar Gardens, Glenrothes, KY6 2RF (“the Applicants”); and**

**Bannatyne Kirkwood France & Co, Solicitors, Exchange House, 16 Royal Exchange Square, Glasgow, G1 3AG (“the Applicant’s Representative”) and**

**Ms Leanne Littlejohn, residing at 260 Muirfield Drive, Glenrothes, KY6 2PY (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**S Brydon - Ordinary Member**

**Decision:**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant the Application.**

### **Background and Case Management Discussion on 18<sup>th</sup> February 2025**

1. This is an Application brought in terms of Rule 66 (Application for order for possession upon termination of a short-assured tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”).
2. The Applicants Mr and Mrs McIntosh had provided the Tribunal, in the Application, with copies of the parties’ short assured tenancy agreement, Form AT5, Notice to Quit (“NTQ”) and Sections 33 and 11 Notices with relevant

Executions of Service. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988 (“the 1988 Act”), and the procedures set out in the Act had been correctly followed and applied.

3. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 10.00am on 18<sup>th</sup> February 2025. The Applicants’ Representative’s Ms A. Wooley and the Respondent Ms Littlejohn attended. Ms Wooley stated that the Applicants Mr and McIntosh wish to recover possession of the Property for financial reasons. She said that they also rent two other properties one of which they are also trying to sell. She stated that Mr and Mrs McIntosh are suffering a degree of financial difficulty and they require to release capital from the sale of the Property. She said that Mr and Mrs McIntosh, in particular, require funds to pay for their children’s attendance at university. Ms Wooley said that she had no instructions regarding any postponement of enforcement of an eviction order and that she would leave this matter to be decided upon by the Tribunal. Ms Wooley said that Ms Littlejohn’s rent is up to date.
4. Ms Littlejohn stated that she consents to the eviction order being granted. She said that she agrees that Mr and Mrs McIntosh should be allowed to recover the Property and sell it. Ms Littlejohn said that she is 34 years of age. She stated that she was diagnosed with advanced stage 3 cancer around 18 months ago and that her medical treatment in this regard has been successful. She stated that she has had to use a stoma and this has caused her to have a hernia which cannot be operated on at the moment. Ms Littlejohn said that following her treatment she regularly suffers from infections. Ms Littlejohn said that she has two sons who reside with her, aged 15 and 13 and that her elder son is due to sit his National 5 exams in May 2025. Ms Littlejohn stated that she has applied to her local authority for a tenancy but has been told that her application cannot be progressed until an eviction order is granted. She stated that, ideally, she and her family may be allowed some further time before an eviction order is enforced to allow time for her application for social housing to be granted, and to enable her older son to get through his exams. Ms Littlejohn said that when she is given another tenancy she will immediately inform Mr and Mrs McIntosh’s letting agents, Your Move, Glenrothes.

### **Statement of Reasons**

5. In terms of Section 33 of the 1988 Act, the Tribunal shall make an order for possession of a house let on a tenancy if:

- (a) the short assured tenancy has reached its end;
- (b) tacit relocation is not operating;
- (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
- (d) the landlord has given to the tenant notice stating that he requires possession of the house.

6. The Tribunal considered all of the available evidence and the submissions of Ms Wooley and Ms Littlejohn. The Tribunal found in fact that all of the documentation regarding termination of the parties' tenancy agreement had been validly served on Ms Littlejohn. They found that Ms Littlejohn's rent is up to date. They found that Ms Littlejohn is actively seeking to move out of the Property to allow Mr and Mrs McIntosh to recover and sell it. The Tribunal further found in fact that both Mr and Mrs McIntosh and Ms Littlejohn wish an eviction order to be granted. Having made such findings in fact the Tribunal found in law that the parties' tenancy agreement had been lawfully brought to its end in terms of the relevant legislation and that it was reasonable to grant an eviction order. Given that Ms Littlejohn is continuing to suffer from health difficulties, and as her son is due to sit important exams in May 2025, the Tribunal decided that it was reasonable to grant the eviction order with a deferred enforcement date of 2<sup>nd</sup> June 2025. In reaching this particular decision the Tribunal placed reliance on Ms Littlejohn's history of paying rent, her candid agreement that Mr and Mrs McIntosh should recover their Property and her straightforward request for further time to obtain alternative housing due to her medical situation and her elder son's forthcoming exams.

### **Decision**

7. The Tribunal granted an order for possession of the Property as sought in the Application.

### **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.**

**G McWilliams-**

**18<sup>th</sup> February 2025**

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**Legal Member**

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**Date**