



**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/24/2464**

**Re: Property at Eskdale Cottage, 7 Bellevue Street, Dumfries, DG1 3EJ (“the  
Property”)**

**Parties:**

**Mr William Currie Graham, Chapel of Logan, Chapelknowe, Canonbie, DG14 0YB  
 (“the Applicant”)**

**Mr Paul Gidney, Ms Claire Amanda Gidney, Eskdale Cottage, 7 Bellevue Street,  
Dumfries, DG1 3EJ; Eskdale Cottage, 7 Bellevue Street, Dumfries, DG1 3EJ  
 (“the Respondent”)**

**Tribunal Members:**

**John McHugh (Legal Member) and Janine Green (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an Order for possession of the Property should be  
made in favour of the Applicant. Enforcement will be postponed until 1 August  
2025.**

**Background**

The Applicant is the Landlord and the Respondents are Tenant in terms of a short assured tenancy agreement in respect of the Property dated 8 and 25 June 2015.

The Applicant presented an application to the Tribunal on 30 May 2024 for possession of the Property on the ground that the short assured tenancy has expired.

A Case Management Discussion was fixed for 29 October 2024 but postponed at the request of the Applicant.

## **Case Management Discussion**

A Case Management Discussion ("CMD") took place by telephone conference on 4 April 2025. The Applicant was in attendance and was represented by his solicitor, Mr Bolling.

The Respondents were in attendance also.

The parties agree that the tenancy has continued for around ten years on a harmonious basis. The rent has never increased and the tenants have attended to most maintenance issues themselves such that there has been little contact between the parties. The Applicant is now finding the responsibilities of being a tenant onerous and the Property is situated 50 miles from his home. He would like to sell the Property.

The Respondents have four children aged 9, 13, 17 and 20. The 20 year old suffers from Type 1 diabetes and needs regular care. The 17 year old is about to sit her Highers. She has ADHD and autism. The 13 year old is awaiting diagnosis in respect of the same conditions.

The Respondents and their two oldest children all work for the family business which is about to cease trading on 1 June 2025 because of financial difficulties. The Respondents are in receipt of Universal Credit. They cannot afford alternative private accommodation. They require a four bedroom house. They are on housing lists but have no commitment from the local authority to offer them suitable accommodation.

The Respondents would prefer that an Order was not made but if it was they asked that it be until at least 3 July being the beginning of the school holidays to accommodate their children's education. The Applicant indicated that he would be amenable to the enforcement of any decision to evict being postponed until the end of July 2025.

## **Findings in Fact**

The Applicant is the Landlord and the Respondents are the Tenant in terms of a short assured tenancy agreement in respect of the Property dated 8 and 25 June 2015.

The tenancy was for an initial period of six months and has continued on tacit relocation since that initial period.

On 22 February 2024 the Applicant served a Notice under section 33 of the Housing (Scotland) Act 1988 and a Notice to Quit requiring the Respondent to remove from the Property by 20 May 2024.

The Respondents remain in occupation.

The Applicant intends to sell the Property.

The Respondents have four dependent children, one of whom will be sitting school exams between now and July 2025.

It would be reasonable to grant the Order sought.

### **Reasons for Decision**

The parties entered into a short assured tenancy dated 8 and 25 June 2015 for an initial six month period. The tenancy has continued since then on the basis of tacit relocation.

The Applicant served notice under section 33 of the 1988 Act and Notice to Quit dated 22 February 2024. These required the Respondent to remove by 20 May 2024 which he has not done.

The Applicant has served a notice under section 11 of the Homelessness etc (Scotland) Act 2003 on the local authority.

The Applicant is, in terms of the relevant legislation, entitled to an order for possession in the circumstances provided that the Tribunal considers that a making of such an Order would be reasonable.

The Applicant reports that he wishes to sell.

The Tribunal considered carefully the Respondents' submissions concerning their personal circumstances. They have four children all of whom live in the house and are dependent upon them. The youngest is 9 and the oldest 20. The two oldest work in the family business which also employs both Respondents.

The business is to cease trading on 1 June 2025 for financial reasons. Then all three will be out of work.

The 17 year old is due to sit her Highers. She has ADHD and autism. The 13 year old is expected to receive a similar diagnosis.

The Respondents receive Universal Credit.

They cannot afford alternative private accommodation. They will be dependent upon the local authority to provide accommodation.

Having considered the Applicant's legal entitlement to recover possession; the fact that the Notice to Quit is now well over a year old and that the Applicant no longer wishes to be a Landlord and intends to sell the Property, we consider that it would be reasonable to make an Order for possession of the Property in favour of the Applicant.

The Tribunal has considerable sympathy for the Respondents' situation. The Tribunal wishes to avoid any disruption to the children's education and so considers that it would be appropriate to delay any enforcement of its eviction Order until 1 August 2025.

### **Decision**

**An Order for possession of the Property will be made in favour of the Applicant. Enforcement will be delayed until 1 August 2025.**

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### **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.

John McHugh

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Legal Member/Chair

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Date: 4 April 2025