



**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/25/3887**

**Re: Property at 1/1, 5 Burnbank Road, Hamilton, ML3 9AA (“the Property”)**

**Parties:**

**Mr Dewar Rhind, Mrs Elizabeth Rhind, 28 Sycamore Way, Cambuslang, Glasgow (“the Applicants”)**

**Mr James Kirkwood, 1/1, 5 Burnbank Road, Hamilton, ML3 9AA (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Lorraine Charles (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the Order sought for recovery of possession of the property. The Tribunal ordered a delay in the execution of an eviction order until 7 June 2026, in terms of Rule 16A (d) of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

**Background**

1. The Applicants submitted an application under Rule 66 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).

3. Letters were issued on 10 February 2026 informing both parties that a CMD had been assigned for 26 March 2026 at 10am, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision on the application at the CMD if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 3 March 2026. No written representations were received by the Tribunal.

### **The case management discussion – 26 March 2026**

4. The CMD took place by conference call. The Applicants joined the call and represented themselves. The Respondent joined the call and represented himself and he was supported by his sister. The Tribunal explained the purpose of the CMD.
5. The Respondent did not oppose the application but he does not have alternative accommodation to go to. He is in full time employment and lives alone at the Property. He has applied to the local authority for housing but is not optimistic that he will be offered accommodation quickly. He has applied for a few other tenancies but has been unsuccessful. He hopes to be in a position to secure another tenancy within the next 2 or 3 months.
6. The Applicants explained that this is their only rental property. It was always their plan to sell the Property when they wished to retire. They now wish to retire and intend to sell the Property if and when they obtain vacant possession. The basis upon which recovery of possession is sought is that by operation of section 33, the tenancy has been brought to an end at the ish date.
7. The Tribunal outlined the normal timescale for an eviction taking place if an order is granted. The Applicants advised that as long as they have certainty about an order, they had no difficulty in some extra time being allowed to the Respondent to find another property.
8. The Tribunal adjourned the CMD to enable the members to consider the information provided by both parties. When the CMD was reconvened, the Tribunal explained that it found the conditions of section 33 had been met and that it was reasonable to grant an order for eviction. The parties were advised that the Tribunal decided to delay the execution of an eviction by a period of 6 weeks.

### **Findings in Fact**

9. The Applicants are the owners and landlords of the Property at 1/1, 5 Burnbank Road, Hamilton, ML3 9AA.

10. The Respondent is the tenant of the Property.
11. The tenancy in question is a short assured tenancy which commenced on 30 July 2015. The tenancy has continued by tacit relocation.
12. The Applicants served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by sheriff officer on 9 May 2025.
13. On 7 September 2025 the Applicants applied to the Tribunal for an order for possession based on the operation of section 33 of the Housing (Scotland) Act 1988.
14. The short assured tenancy had reached its ish.
15. Tacit relocation is not operating.
16. No further contractual tenancy is operating.

### **Reason for Decision**

17. The Tribunal was satisfied that it could make relevant findings in fact in order to reach a decision following the CMD, and that to do so would not be contrary to the interests of the parties in this case.
18. The Tribunal proceeded on the basis of the documents lodged and the information provided at the CMD. The Applicants served a notice to quit and a notice in terms of section 33 of the Housing (Scotland) Act 1988. The conditions of section 33 had been satisfied in respect that the tenancy had reached its ish, tacit relocation was not operating and no further contractual tenancy was in operation.
19. In considering the issue of reasonableness, the Tribunal took account of the following factors: The Applicants intend to retire. The Property is their only rental property and they intend to sell it and cease activity as a landlord. The Respondent did not oppose the application although he does not have alternative accommodation. He lives alone and is in full time employment. Taking account of these matters Tribunal was persuaded that it was reasonable to grant an order for eviction.
20. The Respondent has not yet secured alternative accommodation. He hopes to be able to secure another tenancy within the next 2 or 3 months. The Applicants did not oppose a little bit more time being afforded to the Respondent to find alternative accommodation. The Tribunal exercised its discretion in terms of Rule 16A and ordered a delay in execution of an eviction order by 6 weeks.

## 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.

# N Irvine

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Legal Member/Chair

26 March 2026

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Date