Housing and Property Chamber
First-tier Tribunal for Scotland

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/26/2109

Re: Property at 7 Park Avenue, Beith, North Ayrshire, KA15 2AL ("the Property")

Parties:

Easton Property Residential Limited, 2 Newfield Drive, Dundonald, South Ayrshire, KA2 9EW ("the Applicant")

Ms June Armour, Mr Duncan Everett, 7 Park Avenue, Beith, North Ayrshire, KA15 2AL ("the Respondents")

Tribunal Members:

Hilary Macandrew (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an Eviction Order be granted.

1) Background

1.1 By Application dated 12th May 2026 the Applicant sought an order under Section 33 of the Housing (Scotland) Act 1988. An application was also made by the Applicants under chamber reference FTS/HPC/CV/26/2110 seeking a Payment Order in respect of unpaid rent. The two applications were heard together.

1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 10th August 2026.

1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon both Respondents by sheriff officers on 21st August 2026.

1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Short Assured Tenancy Agreement,
- AT5
- Notice to Quit and proof of service
- Section 33 Notice
- Section 11 Notice
- Statement of Rent Arrears
- Pre Action correspondence
- Template for a Repayment plan

1.5 A Case Management Discussion was set to take place on 29th October 2026. Intimation was given to the Respondent by Sheriff Officers on 21st August 2026

2) The Case Management Discussion

2.1 The CMD took place by tele conference on 29th October 2026. The Applicants were represented by Ms Barclay who is their Property Manager. The Tribunal delayed starting for five minutes for the Respondents to take part. The Respondents were neither present nor represented.

2.2 The Applicant sought the Eviction Order based on Section 33 of the Housing (Scotland) Act 1988 based on the tenancy agreement having reached its contractual end.

2.3 Ms Barclay referred to the Short-Assured Tenancy Agreement which enabled the Applicant to end the tenancy upon giving at least two months written notice. Tacit relocation did not apply. The relevant statutory Notices had been served. The Respondents remain in the property.

2.4 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 CMD which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a hearing.

3) Findings in Fact and Law

3.1 The Tenancy agreement is a Short-Assured Tenancy with a start date of 8th July 2016 and end date of 8th January 2017.

3.2 On 22nd January 2026 the Applicant served Notice to Quit and the Section 33 Notice on the Respondent effective from 8th April 2026. Section 11 Notice was

intimated to North Ayrshire Council on 8th July 2026. The Notices were correctly drafted and provided sufficient Notice.

3.3 The Respondents have not removed from the property.

3.4 The basis for the Order for possession was accordingly established.

4) Issue For the Tribunal

4.1 The issue for the Tribunal is to determine whether it is reasonable to grant the Order.

4.2 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah 1943 SC 245* whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.

4.3 The Tribunal found that the Applicant is entitled to recovery of the property. The tenancy has been correctly ended. Ms Barclay outlined the circumstances of the Respondents and Applicants as follows; The Respondents have not removed. The Respondents have been continuously in arrears of rent since at least 8th January 2019. When the Application was made the arrears stood at £10,213.45. At the date of the CMD they had increased to £12,633.45. The current monthly rent of £500 is not being paid in full. It is understood the Respondents may receive some benefits but an application by the Applicants to Universal Credit for direct payment of rent was rejected. The Respondents are not engaging with the Applicant. The Respondents are an adult couple. They have no known disabilities or vulnerabilities which might affect their ability to engage with the Applicants. They have no known dependent children living with them. They have been obstructive in relation to inspections and access for service checks. The Applicants are affected financially by the continued nonpayment of rent. They have other rental properties as well as the property to maintain and repair. They have staff to pay. The Tribunal places weight on the significant arrears, the circumstances of the Applicants and the lack of engagement from the Respondents.

4.4 Accordingly, the Tribunal was satisfied that it is reasonable to grant an order for eviction.

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.

Hilary MacAndrew

H Macandrew	**29th October 2026**
Legal Member/Chair	**Date**