



**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/20/1269**

**Re: Property at 24 Swan Road, Tranent, EH33 2JG (“the Property”)**

**Parties:**

**Mr Paul Greig & Mrs Elizabeth Greig, Flat 35, 91 Henderson Row, Edinburgh, EH3 5BH (“the Applicants”)**

**Mr William McLay & Ms Elaine McLay, 24 Swan Road, Tranent, EH33 2JG (“the Respondents”)**

**Tribunal Member:**

**Nicola Irvine (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

The Applicants submitted an application seeking an order to evict the Respondents from the property at 24 Swan Road, Tranent, EH33 2JG. The Tribunal intimated the application to the Respondents on 3 August 2020 and advised them of the date, time and place of a case management discussion which had been fixed for 21 August 2020. On the application of the First Respondent, that case management discussion was postponed until today. The Tribunal intimated details of today’s case management discussion to parties by letter of 2 September 2020.

## **The Case Management Discussion**

The case management discussion took place by conference call. The Applicants were represented by Mr Macleod and both Respondents were represented by Mr McLay. Mr Macleod advised that the Applicants rely upon Section 33 of the Housing (Scotland) Act 1988 and sought an order for eviction. The Applicants' position was that the conditions set out in Section 33 of the Act have been met and the short assured tenancy terminated at the ish. Mr McLay confirmed that he and his wife had both received the notice to quit and the section 33 notice and advised that they were surprised to receive these notices because they have been good tenants for many years. Mr McLay advised that he and his wife require time to remove all of their belongings from the property and advised that it is their intention to remove from the property by the end of October. Mr McLay understood that the tenancy had terminated in May and advised that they did not remove from the property at that time because the coronavirus pandemic made it difficult for them to do so; they have however continued to pay rent. Mr Macleod acknowledged that the Respondents have been good tenants for many years and have looked after the property. However, he advised that the Applicants' circumstances have changed and that is the reason the present application was made.

## **Findings in Fact:**

1. The Applicants and the Respondents entered into a tenancy agreement in respect of the property; the duration of the tenancy was from 7 November 2014 to 6 May 2015. Thereafter, the tenancy continued by tacit relocation.
2. The rent payable was £625 per calendar month, payable in advance.
3. The Applicants' agent served notice in terms of Section 33 of the Housing (Scotland) Act 1988 on 14 January 2020 indicating that the Applicants required possession of the property on or before 6 May 2020.
4. The Applicants agent served a Notice to Quit on 14 January 2020 indicating that the Respondents required to remove from the property by 6 May 2020.
5. The short assured tenancy had reached its ish.
6. Tacit relocation was not operating.
7. No further contractual tenancy is in operation.
8. The Applicants are entitled to the Order sought for repossession.

## **Reason for Decision**

The Tribunal proceeded on the basis of the written documents which were before it. The Applicants' representative invited the Tribunal to make the Order sought. The

Applicants relied upon Section 33 of the Act. The notice had been properly served. The Tribunal was satisfied that conditions of Section 33 had been met. There was nothing before the Tribunal challenging or disputing any of the evidence before it. The Respondents did not oppose 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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

**Nicola Irvine**

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**Legal Member/Chair**

**01 October 2020**

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**Date**