



**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/21/0522**

**Re: Property at Yew Tree Cottage, Crichton, Midlothian, EH37 5UZ (“the  
Property”)**

**Parties:**

**Mr William Barron, Mrs Helen Barron, 14 Bishops Park, Inverness, IV3 5SZ (“the  
Applicant”)**

**Ms Fiona Partridge, Ms Kirsten Partridge, Yew Tree Cottage, Crichton,  
Midlothian, EH37 5UZ (“the Respondent”)**

**Tribunal Members:**

**Susan Christie (Legal Member) and Elaine Munroe (Ordinary Member)**

**Decision (in absence of the Second Named Respondent only)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an Order for recovery of possession of the Property  
be granted in favour of the Applicants and at an agreed enforcement date of no  
earlier than 19 July 2021.**

**Background**

- 1 The Application under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) was made by the Applicants on 8 March 2021.
- 2 A Notice of Acceptance of Application is dated 31 March 2021.
- 3 The Applicants seek recovery of possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the Act”).
- 4 A conference call Case Management Discussion (CMD) was scheduled for 12 May 2021.
- 5 Intimation of the Tribunal papers on the Respondents was made by Sheriff Officer, mode of service by letterbox, on 7 April 2021.

- 6 Written responses were due to be submitted by the Respondent by 28 April 2021. None were lodged then, however a written submission was made by Ms Fiona Partridge for use at the Hearing. This was belatedly received and crossed over and no issue was taken with it.
- 7 A Case Management Discussion (CMD) conference call took place on 12 May 2021. The Applicant's Representative, Ms Morrison participated along with the Applicant Mr Barron. Neither of the Respondents participated.
- 8 A request for postponement was made by e mail by Fiona Partridge and it was decided by the Tribunal that the CMD could recall at 4 p.m. to allow Ms Fiona Partridge to participate, as it appeared to be her intention to do so. Ultimately, she did not and therefore the assessment of the application and position of the Respondent was set out in a CMD Note and a Direction was issued to the Parties. A Hearing was assigned for 2 June 2021.
- 9 The Tribunal was conscious that in relation to Coronavirus (Scotland) Act 2020 the Tribunal in addition to the normal requirements contained in Section 33 of the Act, an order could only be made if it were considered reasonable to do so.
- 10 The Applicants Representative had responded timeously to the Direction and provided a copy of the dated e mail intimating the Section 11 Notice on the local authority and an indexed inventory showing the communications between the Parties surrounding vacant possession being sought and marketing arrangements pursued for the Property's sale.

### **The Hearing-2 June 2021**

- 11 A Hearing by conference call took place. The Applicant's Representative, Ms Morrison participated along with the Applicant Mr Barron. Ms Fiona Partridge participated.
- 12 I was satisfied that proper intimation had been made on the absent Respondent.
- 13 The documents produced in response to the Direction were discussed and it was confirmed they had been crossed over. A copy of the dated e mail intimating the Section 11 Notice on the local authority completed the documents that the Tribunal wished sight of, and all was in order. No issue was taken by the Respondent regarding the paperwork served.
- 14 The Tribunal then considered whether it is reasonable to make the Order having regard to the additional requirements introduced due to COVID-19.
- 15 The Applicants position had already been summated as follows-the let was always intended to be short term as they had intended to return to live there. By 2019 they decided to remain in Inverness. They wished to sell the Property to fund a house purchase there. They had served a Notice to Quit but it was flawed. The Respondents have had the benefit of a longer period of notice in any event. The Applicants have borrowed a large sum of money that was used to purchase a property and it is to be repaid from the proceeds of the sale of this Property. The Second Respondent is the adult daughter of the First Respondent. No-one else lives there to their knowledge. They are not professional landlords and were introduced through an acquaintance. They seek an Order for recovery.

16 The Respondent Ms Fiona Partridge took no issue with the application for recovery of possession but highlighted her and her daughter's personal circumstances generally as detailed in the submission document. They had been seeking alternative accommodation more recently in earnest but had repeatedly lost out in a market that was seeing a quick turnaround of properties. They had not approached the local authority and some discussion took place around the statutory duties of local authorities to provide Housing advice. Given their health issues they were worried if they needed to move abruptly. The normal timescales were set out by Ms Morrison and a brief adjournment took place so that the Applicants position on the possibility of a slightly longer exit date could be discussed. This was done in the context of the provisions of Section 20 of the Housing (Scotland) Act 1988. After the adjournment a concession was made by the Applicants for an extended earliest date for recovery as 19 July 2021. The Respondent considered this to be very fair and it was agreed.

### **Findings in Fact**

- I. A Short Assured Tenancy (SAT) was entered into between the Parties over the Property with a start date of 19 June 2017 for an initial period of six months and monthly thereafter until terminated. An AT5 was also served and acknowledged.
- II. Valid Notices under section 33 of the Act were served on each Respondent dated 17 August 2020.
- III. Valid Notices to Quit were served on each Respondent.
- IV. All notices were served by Sheriff officers.
- V. A Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent to the relevant local authority.
- VI. The SAT has reached its finish.
- VII. Tacit relocation is not operating.
- VIII. No further contractual tenancy is in existence.
- IX. Notice has been made by the Applicants that they require possession of the Property from the Respondents.
- X. The Tribunal is satisfied that it is reasonable for an eviction Order to be granted.
- XI. The Tribunal specified the date for recovery of possession of the Property to be no sooner than 19 July 2021.

### **Reasons for Decision & Decision**

The Tribunal had regard to the provisions of Section 33 of the Housing (Scotland) Act 1988 ('the Act'). The Tribunal had regard to the amendments made to the Act in relation to the Coronavirus (Scotland) Act 2020, with regards to the extended periods of notice to be given and the introduction of the consideration of reasonableness of granting an Order. The Applicants have complied with all necessary Notices to be given or served on the Respondent and on the local authority. The paperwork is in order. The Tribunal had regard to all that was said by the Parties in written form and orally prior to deciding, as detailed above. The position of the Applicants had been

reasonable throughout with regards to their intimating their intentions to the Respondents. The Respondents were seeking alternative accommodation and currently had not secured any. The terms of Section 20 of the Act were discussed, and an agreed position was reached allowing for enforcement of recovery of possession by the Applicants no sooner than 19 July 2021. This was to allow the Respondents slightly longer to seek to secure alternative accommodation and/or housing options advice, if needed.  
The decision of the Tribunal is unanimous.

### **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.**

**S.C.**

**Legal Member/Chair**

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**2 June 2021**  
**Date**