



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)  
Act 2014**

**Chamber Ref: FTS/HPC/EV/18/2168**

**Re: Property at 67 Tippet Knowes Park, Winchburgh, EH52 6UR (“the  
Property”)**

**Parties:**

**Mr Brian Bird, Mr Martin Bird, 199 West Main Street, Broxburn, West Lothian,  
EH52 5LH; 197A West Main Street, Broxburn, EH52 5LH (“the Applicants”)**

**Mr John Cusick, 67 Tippet Knowes Park, Winchburgh, EH52 6UR (“the  
Respondent”)**

**Tribunal Members:**

**Rory Cowan (Legal Member)**

**Decision in absence of the Respondent**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the application should be granted.**

- Background

By application received by the tribunal on 19 August 2018, the Applicants sought an order for possession relative to the Property in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The tribunal fixed a Case Management Discussion (CMD) and this was intimated to the parties. The Respondent was advised as part of this intimation that written representations were required by 24 October 2018. No responses were received. The Respondent was also advised that he required to attend the CMD and that the tribunal could make any decision on the application at the CMD including granting it as long as the tribunal had sufficient information and the procedure had been fair. Notice of the application was given to the Respondent by sheriff officers on 11 October 2018. The CMD took place on 29 October 2018. The Applicants were represented by Yvonne Bird, the spouse of Martin Bird, one of the Applicants. The Respondent did not attend.

- The Hearing

The Applicants' representative moved the application for a possession order under the terms of section 33 of the Housing (Scotland) Act 1988.

- Findings in Fact

- 1) That the tenancy dated 16 September 2018 between the Applicants and the Respondent was a Short-assured Tenancy.
- 2) That 16 August 2018 was an lsh date for the said tenancy.
- 3) That the contractual tenancy was terminated as at 16 August 2018 by the service of a Notice to Quit dated 29 May 2018.
- 4) That Tacit relocation was not operating.
- 5) That the appropriate notice in terms of section 33(1)(d) of the Housing (Scotland) Act 1988 had been given by the Applicants to the Respondent.
- 6) That the Applicants had therefore complied with the terms of section 33 of the Housing (Scotland) Act 1988.
- 7) The Applicants are entitled to an order for possession for the Property.

- Reasons for Decision

The Applicants having complied with the requirements of section 33 of the Housing (Scotland) Act 1988 and the underlying tenancy relative to the Property being a Short-assured Tenancy, are entitled to an order for possession relative to the Property.

- Decision

An Order for Possession was granted.

### 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.**

# Rory Cowan

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Legal Member/Chair

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Date

29th October 2018