

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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 (“the Act”).**

**Chamber Ref: FTS/HPC/EV/22/2517**

**Re: Property at Flat 2 Block 3, Thistlebank, Bridge of Weir, PA11 3PD (“the Property”)**

**Parties:**

**Mr Ian Graham and Mrs Sheena Graham, Killorchies Farm, Kilmacolm, PA13 4TE (“the Applicants”)**

**Mr John Dardis, Flat 2, Block 3 Thistlebank, Bridge of Weir, PA11 3PD (“the Respondent”)**

**Tribunal Members:**

**David Preston (Legal Member) and Mike Scott (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction by granted in favour of the Applicants.**

1. By application dated 1 August 2022 the Applicants applied to the First-tier Tribunal under Rule 66 of the First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The application was accompanied by: Short Assured Tenancy Agreement dated 27 October 2016; Form AT5 dated 24 March 2016; Notice to Quit dated 20 January 2022; Notice under section 33 of the Act dated 20 January 2022; Sheriff Officers Certificate of Execution of Service dated 20 January 2022; and Notice to Local Authority under section 11 of the Homeless etc (Scotland) Act 2004.
3. By Decision dated 15 February 2023, a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the Rules to the tribunal. A letter of Intimation with Notice of the Case Management Discussion to be held by telephone on 11 April 2023 at 10.00, together with the case papers was served on the respondent

by Sheriff Officers on 8 March 2023. The tribunal was provided with a copy of the Sheriff Officer's Certificate of Intimation thereof.

4. The tribunal was satisfied that all relevant documents and intimation of today's hearing had been duly served on the respondent and that the requirements of Rule 24 had been complied with.

### **The Case Management Discussion (CMD)**

5. Ms Samantha Hughes, Kilglen Residential and Commercial Lettings appeared on behalf of the applicants. There was no appearance by or on behalf of the respondent. The tribunal determined that the respondent had voluntarily waived his right to be present at the hearing or be represented and was accordingly content to proceed in his absence.
6. A Short Assured Tenancy Agreement dated 24 March 2016 had been entered into between the parties. On 20 January 2022, a Notice to Quit, together with Notice under Section 33 of the Housing (Scotland) Act 1988 had been served on the respondent by Sheriff Officers on that date. A Certificate of Intimation dated 21 January 2022 was before the tribunal.
7. Before granting an eviction Order, the tribunal required to be satisfied that it was reasonable to do so in all the circumstances.
8. Ms Hughes advised that arrears of rent had accumulated mainly as a result of the respondent delaying or failing to pay rent increases throughout the duration of the lease. The rent had originally been at the rate of £595 per month. On 24 February 2018 a Notice of Increase had been served to increase the rent to £610 per month. The respondent had delayed implementing the increase until 24 August 2018. On 24 January 2020 a further Notice of Increase was served to increase the rent to £628. Again, the respondent failed to implement the increase until 24 February 2023. In addition, there had been a number of rent payments missed, resulting altogether in current arrears of £1403.
9. Ms Hughes advised that so far as she was aware, the respondent was single and lived alone and had been in employment as a dentist at the time the lease was entered into. He did not respond to communications from her as letting agent and did not accept telephone calls from her, although she had been able to carry out one inspection of the property.
10. The tribunal was satisfied that the requirements of section 33 had been met.
11. The tribunal accepted the information provided by Ms Hughes in relation to the question of reasonableness. The respondent had failed to engage with the applicants throughout the lease. He had not responded to Notices of Increase and had failed to implement the increases as required for a number of months on each occasion, he had further failed to engage in the current application process. He had failed to respond to the various Notices served on him and had failed to respond to the Intimation of CMD.

12. In the absence of any information from the respondent, the tribunal was satisfied that in all the circumstances it was reasonable to grant the eviction Order.

### **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.**

David Preston

11 April 2023