



**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/22/3791**

**Re: Property at Bracken Cottage, Bartsobrick, Ringford, Castle Douglas, DG7 2AG (“the Property”)**

**Parties:**

**Mr Christopher Whiteley, Mrs Susan Barbara Whiteley, Barstobrick, Ringford, Castle Douglas, Dumfries and Galloway, DG7 2AG (“the Applicants”)**

**Mr Luke Stephen John Rhoden, Mrs Denise Obern, Bracken Cottage, Bartsobrick, Ringford, Castle Douglas, DG7 2AG (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Leslie Forrest (Ordinary Member)**

**Decision**

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

**Background**

1. The Applicants submitted an application under Rule 66 for an order to evict the Respondents from the property.
2. By decision dated 16 January 2023, a Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicants’ representative on 19 January 2023. Letters were issued on 17 February 2023 informing both parties that a CMD had been assigned for 28 March 2023 at 2pm, which was to take place by conference call. In that letter, the parties were also told that

they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 10 March 2023. No written representations were received by the Tribunal.

### **The case management discussion**

4. The CMD took place by conference call. The Applicants were represented by Mr Nicolson and the Respondents represented themselves. The Applicants' representative sought an order for eviction on the basis that the tenancy had reached its termination date. Although the Respondents had incurred rent arrears, the Respondents had made payment of the arrears, thus bringing the rent account up to date. The Respondents did not oppose the application. Although it was not a ground of eviction, the Respondents accepted that they owed money to the Applicants in respect of utility bills. The Respondents live in the property with 3 children, the youngest being 22 months old. The Respondents have been in contact with the local authority but alternative accommodation has not yet been identified for them.

### **Findings in Fact**

5. The parties entered into a short assured tenancy which commenced 24 August 2015.
6. The Applicants' representative served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondents by recorded delivery on 20 January 2022.
7. The short assured tenancy had reached its end.
8. Tacit relocation was not operating.
9. No further contractual tenancy is in operation.

### **Reason for Decision**

10. The Tribunal proceeded on the basis of the documents and the submissions made at the CMD. The Respondents did not oppose the application. The Tribunal was satisfied that the conditions of section 33 had been met and that it was reasonable in the circumstances to grant the order evicting the Respondents from the property. Accordingly, the Tribunal granted the order for eviction.
11. The Tribunal took account of the personal circumstances of the Respondents and their family. No alternative accommodation has yet been identified for the

Respondents. The Tribunal superseded the extract of the order for eviction until 26 May 2023.

## 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.

# N. Irvine

28 March 2023

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Date