



**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/22/4027**

**Re: Property at Farmhall Cottage, Forgandenny, Perthshire, PH2 9HR (“the Property”)**

**Parties:**

**Mr David Nichol, Rossie Farmhouse, Forgandenny, Perthshire, PH2 9EH (“the Applicant”)**

**Mr Fraser Ingram, Farmhall Cottage, Forgandenny, Perthshire, PH2 9HR (“the Respondent”)**

**Tribunal Members:**

**Mark Thorley (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision**

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

**Background**

1. The applicant applied to the First Tier Tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’) by application dated 4 November 2022.
2. Accompanying the application were the following documents:
  - a. Tenancy Agreement dated 14 November 2009
  - b. Form AT5 dated 19 November 2009
  - c. Notice to Quit dated 21 April 2022
  - d. Certificate of Execution of Notice to Quit dated 22 April 2022
  - e. Section 11 Notice
3. The application was acknowledged on 7 November 2022 by the tribunal. Further information was sought by the tribunal on 30 November 2022. That information was provided.



4. On 15 December 2022 the tribunal accepted the application for determination.
5. The application was served on the respondent by sheriff officers on 24 January 2023.

### **Case Management Hearing**

1. At the case management hearing Mr Peoples solicitor appeared for the applicant. The respondent Mr Ingram attended.
2. The landlord wished to recover possession on the basis of the termination of the short assured tenancy under Section 33 of the Housing (Scotland) Act 1988.
3. The property is within the applicant's estate. The estate has been developed as a wedding and events venue. The applicant wishes to use the property as guest accommodation.
4. Mr Peoples confirmed that the respondent had already had 10 months of occupation since the Notice to Quit was served and since this was a case covered by the Cost of Living (Tenant Protection) (Scotland) Act 2022 that the respondent would have a further 6 month period from any order being granted before he would have to leave.
5. In addition there were four other cottages on the estate and all tenants had left following upon service of a Notice to Quit.
6. The respondent opposed the application for eviction. He is self employed and has a workshop nearby. It is convenient for him. The rent is also competitive. He has looked for other private rented accommodation in the locality but has not been able to obtain any.

### **Findings in Fact**



1. The parties entered into a Tenancy Agreement dated 19 November 2009 for the premises at Farmhall Cottage, Forgandenny, Perthshire PH2 9HR. Rent was initially due at the rate of £460 per month payable monthly and in advance. Rent was now payable at the rate of £500 per month.
2. The respondent was served with a notice to quit on 22 April 2022.
3. The tribunal accepted the evidence that had been provided in writing and also by the solicitor. The documentation was in order.
4. The respondent is a single man who is self employed.

### **Reasons for Decision**

1 The tribunal accepted that all the documentation was in order. Although the wrong postcode was on the notice to quit the respondent accepted that he had received it.

2 The respondent was working and lived alone in the cottage. He enjoyed a reasonable rent.

3 In terms of reasonableness he had already had a period of 10 months since the notice to quit was served. As a result of the Cost of Living (Tenant Protection) (Scotland) Act 2022 eviction could not take place for another period of 6 months if any order was granted.

4 The applicant had four other cottages on the estate and all tenants had left upon request.

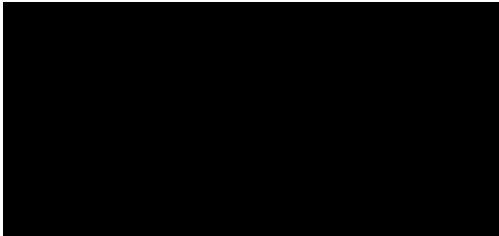
### **Decision**

To grant an 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.



Legal Member/Chair

03 March 2023

Date