



**Decision 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/23/0972**

**Re: Property at 9 Burnside Gate, Rutherglen, Glasgow, G73 5BP (“the Property”)**

**Parties:**

**Mr Colin Honeyman, 18 Orchard Lea Drive, Swallownest, Sheffield, S26 4RY  
 (“the Applicant”)**

**Ms Aysha Sylvia Ali, Mr Khalid Ali Shoket, Mr Tahir Ali, 9 Burnside Gate,  
Rutherglen, Glasgow, G73 5BP; 9 Burnside Gate, Rutherglen, Glasgow, G73  
5BP; 9 Burnside Gate, Rutherglen, Glasgow, G73 5BP (“the Respondents”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

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

**Introduction**

1. This application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order.
2. Intimation of the application and of the Case Management Discussion (‘CMD’) was effected upon the respondent by Sheriff officers on 1 September 2023.
3. The applicant joined the hearing and was represented by Mr Keni Carmichael of Harper Macleod Solicitors. The first two named respondents joined the hearing personally and represented their own interests.

## Findings and Reasons

4. The property is 9 Burnside Gate, Rutherglen, Glasgow G73 5BP. The applicant is Mr Colin Honeyman. He is the heritable proprietor and registered landlord of the property. The respondents are Ms Aysha Sylvia Ali, Mr Khalid Ali Shoket and Mr Tahir Ali who are the tenants.
5. The parties entered into a short assured tenancy which first commenced on 10 September 2014. The applicant engaged 1 Estate Agents Ltd which operated from Stonelaw Road, Glasgow to prepare the tenancy agreement and other documentation, including the form AT5. All of the required formal documents to constitute a short assured tenancy were executed. The applicant has been unable to provide any of the documentation as the said estate agents ceased trading around 2017 and are now dissolved. The Tribunal finds this detailed narrative credible. The respondents do not dispute that the short assured tenancy commenced on 10 September 2014 and after the original term expired this has continued on a month to month basis.
6. On 1 September 2022 the applicant served upon the respondent a notice to quit. In the terms of the said notice to quit, the applicant gave notice to the respondents that they would require to remove from the property on or before 10 November 2022. Further, on 1 September 2022 the applicant served upon the respondents notice under Section 33(1)(d) of the Housing (Scotland) 1988 stating that possession was required of the property as at 10 November 2022. A sheriff officer's execution evidences the service of these documents upon the respondents.
7. The short assured tenancy between the parties has reached its end. Tacit relocation is not operating. No further contractual tenancy is in existence. The applicant has complied with the terms of section 33(1)(d) of the Housing (Scotland) Act 1988.
8. The tribunal also requires to consider the reasonableness of the eviction order being granted.
9. The applicant seeks to evict the respondent on the grounds that he intends to sell the let property. He is the executor of his late father who is the registered owner of the property.
10. The respondents are not opposed in principle to the eviction application. They accept that the applicant requires to sell the property. The third named respondent Mr Tahir Ali (the cousin of the second respondent) has sourced alternative accommodation and no longer lives there. The first and second respondents are married. They have two adult children who live with them and two dogs. The first respondent has some health issues which means that the let property no longer suits their needs.
11. A section 11 notice under the Homelessness etc (Scotland) Act 2003 has been issued to South Lanarkshire Council. In the event of an eviction order being made the local authority is under a statutory duty to make suitable alternative

accommodation available. Their housing officer has advised that they are a priority and are at the top of the list for a ground floor flat which they require.

12. The tribunal concluded that it was reasonable to grant the eviction order. However, recognising the respondents' particular circumstances and having regard to the fact that the additional protections afforded by the Cost of Living (Tenant Protection) (Scotland) Act 2022 do not apply due to the date of service of the notice to leave the tribunal determined that it was fair to extend the period by which an eviction can be carried out beyond the default 30 day period. The applicant was not opposed to such a proposal. The tribunal therefore extended the period to one of three months, until 12 January 2024.

### **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.**



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**Legal Member/Chair**

**11 October 2023**

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**Date**