



**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/23/0999**

**Re: Property at 9A Boreland Road, Inverkeithing, Fife, KY11 1NH (“the Property”)**

**Parties:**

**Just Lettings Ltd, Brewlands House, Abbey Road, Dalkeith, EH22 3AD (“the Applicant”)**

**Mr Adrian Burton, Mr Scott Burton, 9A Boreland Road, Inverkeithing, Fife, KY11 1NH (“the Respondents”)**

**Tribunal Members:**

**Fiona Watson (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondents for possession of the Property under section 33 of the Housing (Scotland) Act 1988.**

- Background
  1. An application dated 27 March 2023 was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondents upon termination of a short assured tenancy agreement.
- The Case Management Discussion
  2. A Case Management Discussion (“CMD”) took place on 12 June 2023 by conference call. The Applicant was represented by Mr Gray of Gilson Gray. The Respondents were represented by Ms Watson of Frontline Fife.

3. The Applicant's representative moved for the order for repossession to be granted as sought. The parties had entered into a Short Assured Tenancy Agreement which commenced 16 May 2016. The Applicant had served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") on the Respondents. The Respondents had failed to remove from the Property and continued to reside therein. The Applicant required repossession of the Property. There were a number of issues, including rent arrears, failure to upkeep the Property to a satisfactory standard and failure to allow access to the Property.

4. The Respondents' representative submitted that the application was not opposed. The Respondents had both lost their jobs following the death of their father and had encountered ongoing financial issues since then. They have consulted with the local authority with a view to being rehoused by them. They do not wish to oppose the order sought.

- Findings in Fact

5. The Tribunal made the following findings in fact:

- (i) The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 16 May 2016. The Agreement stated that the start date was 16 May 2016 and the end date was 17 November 2016. Thereafter, if the Agreement is not brought to an end by either party it will run on a monthly basis until ended by either party;
- (ii) A Notice to Quit and a notice under section 33 of the 1988 Act were served on the Respondents on 11 January 2023 by sheriff officer;
- (iii) The Notice to Quit and notice under section 33 of the 1988 Act required the Respondents to remove from the Property by 17 March 2023;
- (iv) The Respondents had failed to remove from the Property and continued to reside therein.

- Reasons for Decision

6. The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met, namely: that the tenancy had reached its finish; that tacit relocation was not operating; and that a notice had been served in terms of that section giving at least 2 months' notice. In the face of the Respondents having taken advice and advising of no opposition to the order sought, the Tribunal was also satisfied that it was reasonable to grant the order.

- Decision

7. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondents for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

## **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.**

F Watson

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**Legal Member/Chair**

**12 June 2023**  
**Date**