



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/24/4953

Re: Property at 17 Orchard Street, Baillieston, Glasgow, G69 7XA (“the Property”)

Parties:

Mr Martin Weir, 34 Swinton Avenue, Baillieston, Glasgow, G69 6JR (“the Applicant”)

Miss Joanne Naismith, 17 Orchard Street, Baillieston, Glasgow, G69 7XA (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a possession order be granted in respect of the property in favour of the Applicant and against the Respondent it being reasonable to grant such an order.

Background

1. This is an application under section 33 of the Housing (Scotland) Act 1988 and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) was first lodged with the Tribunal on 28th October 2024 and accepted by the Tribunal on 25th November 2024. A case management discussion was fixed for 1st August 2025 at 10am.

The Case Management Discussion

2. The Applicant attended the case management discussion and represented himself. There was no appearance by or on behalf of the Respondent and the Tribunal allowed additional time for her to attend. The Tribunal noted that Sheriff officers had served the Application and supporting papers together with the date of the case management discussion on the Respondent by depositing the papers inside an open door at the property on 11th June 2025. The Tribunal was satisfied that the Respondent had received fair notice of the application and case management discussion and determined to proceed in her absence.

3. The Tribunal had sight of the Application, a statement in support of the application, a tenancy agreement, a Form AT5, a notice in terms of Section 33 of the Housing (Scotland) Act 1988, a Notice to Quit, evidence of service of these notices, what's app messages, a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003, an email intimating this notice to the local authority and an email from an estate agent confirming that they would market the property for sale.

4. The Tribunal noted from the documentation lodged that the parties had entered into a short, assured tenancy at the property on 27 April 2016. The tenancy had an initial term of six months and continued thereafter on a monthly basis. The Tribunal noted that the Respondent had been served with a Notice to Quit and a Notice in terms of section 33 of the Housing (Scotland) Act 1988 by recorded delivery on 13 August 2024. Glasgow City Council had been notified of the proceedings by way of a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003, sent by email on 28 October 2024.

5. The Tribunal explained that before granting an order for possession, it must be satisfied that it was reasonable to do so. The Applicant stated that he is 68 years old and wishes to sell the property to release funds to support his retirement. He owns one other rental property. He referred to messages submitted with the application which showed he first notified the Respondent of his intention to sell in July 2023, informally giving six months' notice, which was later extended, before the Notice to Quit and section 33 notice were served in August 2024. There had been discussions about the Respondent purchasing the property, but she had been unable to secure a mortgage.

6. The Applicant advised that the Respondent is in receipt of benefits and that the rent is paid directly to him. She lived at the property with her teenage son. He was not aware of any vulnerabilities that the Tribunal required to consider. The Respondent had declined offers of alternative accommodation from the local authority. The Applicant believed that the Respondent was still in occupation at the property, but she had not answered his messages for some time.

7. The Tribunal considered that it had sufficient information upon which to make a decision and that the proceedings had been fair.

Relevant Legislation

Section 33 Housing (Scotland) Act 1988

(1) Without prejudice to any right of the landlord under a short, assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal may make an order for possession of the house if the Tribunal is satisfied—

(a) that the short, assured tenancy has reached its finish.

(b) that tacit relocation is not operating; ..

(d) that the landlord (or, where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house, and

(e) that it is reasonable to make an order for possession.

(2) The period of notice to be given under subsection (1)(d) above shall be—

(i) if the terms of the tenancy provide, in relation to such notice, for a period of more than two months, that period.

(ii) in any other case, two months.

(3) A notice under paragraph (d) of subsection (1) above may be served before, at or after the termination of the tenancy to which it relates.

(4) Where the First-tier Tribunal makes an order for possession of a house by virtue of subsection (1) above, any statutory assured tenancy which has arisen as at that finish shall end (without further notice) on the day on which the order takes effect.

(5) For the avoidance of doubt, sections 18 and 19 do not apply for the purpose of a landlord seeking to recover possession of the house under this section.

Findings in Fact

8. The Applicant is the owner of the property and landlord in terms of the tenancy agreement between the parties.

9. The parties entered into a short, assured tenancy at the property with effect from 27th April 2016.

10. The initial term of the tenancy was for six months, and it continued on a month-to-month basis thereafter.

11. On 13th August 2024 the Applicant sent notice to the Respondent by recorded delivery post in terms of section 33 of the Housing (Scotland) Act 1988 stating that possession of the property was required by the Applicant by 27th October 2024.

12. On 13th August 2024 the Applicant sent a Notice to Quit to the Respondent by recorded delivery post giving notice that she should quit the property by 27th October 2024 when the tenancy agreement would terminate.

13. The Notice to quit was in the prescribed form.

14. The Notice to Quit terminated the tenancy with effect from 27th October 2024 and this is a valid end date for the tenancy.

15. Tacit relocation is not in operation in relation to this tenancy.

16. No other contractual tenancy is in place between the parties.

17. A notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 was sent to Glasgow City Council in relation to this application by email of 28 October 2024.

18. The Applicant wishes to sell the property to supplement his retirement funds and has contacted an estate agent to market the property when it is vacant.

19. The Respondent lives at the property with her teenage son and they have no vulnerabilities known to the Applicant.

20. The Respondent is in receipt of benefits, and her rent is paid directly to the Applicant who first gave the Respondent informal notice that he wished to sell the property in July 2023.

21. The Respondent has refused other housing options made available to her.

Reasons for Decision

22. The Tribunal was satisfied that the terms of section 33 of the Housing (Scotland) Act 1988 had been met in relation to this application, the notices served were in the appropriate form and had given the correct notice period to the Respondent and had brought the contractual tenancy to an end. The Tribunal considered the Applicant's reasons for seeking possession, namely his wish to sell the property to supplement his retirement funds. The Tribunal also considered the Respondent's circumstances. She did not attend the case management discussion or make any representations. The Tribunal accepted the Applicant's evidence regarding prior communication with the Respondent, including informal notice of his intention to sell and the Respondent's rejection of alternative housing options. While the Tribunal recognised the potential impact of a possession order on the Respondent and her son, it noted that she had chosen not to oppose the application. On balance, the Tribunal was satisfied that it was reasonable in all the circumstances to grant the order. Accordingly, the Tribunal made a possession order under section 33 of the 1988 Act. The decision was unanimous.

Decision

The Tribunal determined that a possession order be granted in respect of the property in favour of the Applicant and against the Respondent it being reasonable to grant such an 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.

Valerie Bremner

Legal Member/Chair:

Date: 1 August 2025