



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 (“the 1988 Act”) and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/3258

Re: Property at 19 Iona Road, Port Glasgow, PA14 6DL (“the Property”)

Parties:

Mr Garry Fulton, 4/1 5 Jackson Place, Glasgow, G61 1RY (“the Applicant”)

Mrs Josephine Fitzpatrick, 19 Iona Road, Port Glasgow, PA14 6DL (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Angus Anderson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted.

Background

1. The application received on 30 July 2025 sought an eviction order under Rule 66 on the basis that the Short Assured Tenancy had been brought to an end by service of the relevant notices. Supporting documentation was submitted, including a copy of the tenancy agreement, AT5, Notice to Quit, Section 33 Notice and section 11 Notice to the local authority. The Short Assured Tenancy began on 1 December 2010.
2. Following initial procedure, the application was accepted by the Tribunal on 15 September 2025 and notified to the Respondent by Sheriff Officer on 20 January 2026, together with details regarding the Case Management Discussion, which was scheduled to take place on 3 March 2026.

3. No written representations were received from, or on behalf of, the Respondent prior to the CMD.

Case Management Discussion

4. The Case Management Discussion ("CMD") took place by telephone conference call on 3 March 2026, commencing at 2pm. In attendance was Mrs Alison Hatrick of Inverclyde Letting Agency on behalf of the Applicant and the Respondent, Mrs Josephine Fitzpatrick, who was accompanied by a family member, Mr Murray, who was attending in a supportive capacity.
5. Following introductions and introductory comments by the Legal Member, Mrs Fitzpatrick was asked to confirm her position in respect of the application. She confirmed that she had no objections to the eviction. She has applied to the local authority, Inverclyde Council, for Council housing but has not been successful so far. She has been told by the homelessness team that, if they cannot find her permanent accommodation by the eviction date, she may be put into temporary accommodation initially. Mrs Fitzpatrick lives with her two daughters, the eldest of whom is 23 years old and is working. Her younger daughter is 17 and has started a college course. She has settled in there but is high functioning autistic and their housing situation is causing her some anxiety. Mrs Fitzpatrick confirmed that she cannot afford an alternative private let. She has spoken to her landlord about her situation and he has indicated that he is prepared to give her extra time, of around an extra six weeks. They have agreed on a date of 16 April 2026 as the eviction date.
6. Mrs Hatrick then explained the Applicant's situation. She confirmed that he is on the point of retiring himself. He had contacted the Respondent last Spring to discuss a possible rent increase, as he had not increased the rent during the tenancy. However, the Respondent could not afford a rent increase. The Applicant was aware that, even if there is a change of tenancy, he is restricted by the government as to how much the rent can be increased by and therefore made the decision to sell. The Notice to Quit and Section 33 Notices were therefore served, as this was a Short Assured Tenancy. The Applicant appreciates that the Respondent has been a good tenant and does not want her to feel under pressure. He has offered her a bit longer to vacate in the hope that she will be offered suitable alternative accommodation from the local authority. However, this process has already been ongoing for ten months and the Applicant requires to sell, so 16 April 2026 was the date agreed with the Respondent. They would assist in any way they could with her housing situation, such as giving her a good tenancy reference, as there are no rent arrears or other issues. The Respondent is looking for a three-bedroom property at a lower rent level, otherwise they may have been able to offer her an alternative private let property.
7. In summing-up, Mrs Hatrick stated that the Respondent needs an eviction order to be issued so that she can obtain local authority housing and Mrs Fitzpatrick confirmed that she was agreeable to eviction on the agreed timescale.

8. The Tribunal Members adjourned to discuss the application in private and, on re-convening, confirmed that the eviction order sought would be granted with the earliest eviction date being stated as **16 April 2026**, as agreed between the parties. There was some brief discussion regarding the process which would follow and that the Tribunal's decision would be issued in writing within the next few days. It was recommended that Mrs Fitzpatrick informs the local authority as soon as possible regarding the decision so that her housing application could progress and hopefully be prioritised. The parties were thanked for their attendance at the CMD.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Short Assured Tenancy which commenced on 1 December 2010.
3. The Applicant ended the contractual tenancy by serving on the Respondent a Notice to Quit and Section 33 Notice by Recorded Delivery post, posted on 12 May 2025 and delivered on 13 May 2025.
4. The end of the contractual tenancy and notice period in terms of the notices was specified as 1 August 2025, an ish date in terms of the tenancy.
5. Both notices were in the correct form, provided sufficient notice and were served validly on the Respondent.
6. The Respondent has remained in possession of the Property following expiry of the notice period.
7. The Applicant intends to sell the Property due to his financial and personal circumstances.
8. The Respondent attended the CMD but did not oppose the eviction.
9. The parties had agreed between them an extension of the earliest date for eviction.

Reasons for Decision

1. The Tribunal was satisfied that pre-action requirements including the service of the Notice to Quit and Section 33 Notice in terms of the 1988 Act had been properly and timeously carried out by the Applicant in connection with this Tribunal application.

2. Section 33(1) of the Act states that an order for possession shall be granted by the Tribunal if satisfied that the short assured tenancy has reached its finish; that tacit relocation is not operating; that the landlord has given to the tenant notice stating that he requires possession of the house; and that it is reasonable to make an order for possession. The Tribunal was satisfied that all requirements of Section 33(1) had been met.
3. As to reasonableness, the Tribunal considered the background to the application, the supporting documentation lodged by the Applicant and the oral submissions on behalf of the Applicant and by the Respondent at the CMD. The Tribunal was satisfied that the Applicant's reason for wishing to recover possession of the Property was to enable him to sell the Property, due to his financial and other circumstances. He considered that it was no longer financially viable to let out this Property. It was noted that the parties appeared to have maintained an amicable relationship, were still in communication with each other and had agreed an extended timeframe for the eviction to take place. It was hoped that this would give the Respondent a further period to secure suitable local authority accommodation for herself and her two daughters, aged 17 and 23. It was noted that the Respondent could not afford an alternative private let and wished to secure social housing at a lower rental rate.
4. The Respondent was not opposed to an eviction order being granted, on the agreed extended timescale, and the Tribunal determined that it was reasonable, in all of the circumstances, for an order for recovery of possession of the Property to be granted at the CMD.
5. The earliest date for eviction to be stated in the eviction order will be **16 April 2026**.

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. Weir

Legal Member/Chair

_____ **3 March 2026**

Date