



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/26/0558

Re: Property at 141b Main Street, Largs, KA30 8JH (“the Property”)

Parties:

Mr John Valerio, 1/L Sandringham, Bath Street, Largs, KA30 0BS (“the Applicant”)

Ms Linda Robertson, 141b Main Street, Largs, KA30 8JH (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant this order is superseded until 2nd November 2026.

Background

1. An application was received by the Housing and Property Chamber dated 4th February 2026. The application was submitted under Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”).
2. On 28th July 2026, all parties were written to with the date for the Case Management Discussion (“CMD”) of 3rd September 2026 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 18th August 2026.

3. On 30th July 2026, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 30th July 2026.
4. On 28th August 2026, the Respondent's representative emailed the Housing and Property Chamber asking that it be noted that the Respondent was not opposed to an order for eviction being granted but that she required any order to be superseded for 3 months to allow her to be allowed a new property by her local authority.

The Case Management Discussion

5. A CMD was held on 3rd September 2026 at 2pm by teleconferencing. The Applicant was not present but was represented by Mr John Valerio who is the Applicant's brother and manages the Property on his brother's behalf. The Respondent was not present but was represented by Ms Louise Mathieson, Information and Advice Officer, CHAP.
6. The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
7. Mr Valerio confirmed that he wished the order for eviction to be made.
8. Ms Mathieson said that there was no opposition to an order being granted. She has been in discussions with North Ayrshire Council who has said that they may need three months to find the Respondent a new property. The Tribunal asked if that was through the homeless housing department or the mainstream housing department. She said that it was the mainstream. She was not able to confirm if there was any guarantee that the Respondent will be housed in that time. If she is allocated a property before that point she will leave the Property. If she is not allocated a property before that point she will need to be classified under the homeless department. Ms Mathieson said that she would like to avoid that as she may be put into hostel accommodation or temporary accommodation. If she was in temporary accommodation then she would need to store her own furniture at a cost to herself.
9. In terms of the condition of the Property, Ms Mathieson said that the Respondent was not disputing this. She had been ill from her work in October 2025 which eventually resulted in her being paid off in July 2026. She has depression, anxiety, arthritis, pain in her knee and right shoulder plus a had that will lock into a claw position at times. Ms Mathieson has made an application for the Respondent to be considered a vulnerable adult. This would allow her to get assistance for the Respondent to have her property cleaned. The Respondent had only instructed her on 28th August 2026. The application can take up to 6 weeks. Ms Mathieson noted that she has not met the Respondent in person and has not been to the Property to determine the condition of it herself.

10. Ms Mathieson said that the Respondent has direct payments taken from her Universal Credit to pay the Applicant. This is to pay £375 to her rent and £49 to her arrears. Ms Mathieson said that the Respondent applied for UC50 (which is in relation to her health conditions) for Universal Credit but was refused. She cares for her brother and sister but does not receive Carers Allowance. Ms Mathieson said that she did not think that the Respondent would be eligible for Adult Disability Payment as she is a carer. The Tribunal was not able to give any specific advice but noted that there are specialist agencies such as local authority Welfare Rights teams who could assist her with those points and the correct interpretation of the law. Ms Mathieson said that the Respondent is 60 years old and lives on her own.
11. Mr Valerio said that he manages this property on behalf of his brother as the Applicant lives in Ireland. He has managed the Property since the beginning of the tenancy. It is the only rental property that his brother has. His brother intends to sell the Property once the Respondent has left it. He has not known the Respondent to have a job. He believes that she has been on benefits for some time.
12. In terms of the Respondent's health, Mr Valerio said that the Respondent used to seem him each week to pay the rent shortfall. It is only £5 but she would pay it directly to him. He did see her walking with a stick. He believes that there may be an issue with alcohol which is why she has not been able to maintain the Property. He has offered on several occasions to help her clear it but she has refused this each time. He said that the Property is in a worse state than the photos show. He was last in the Property in or around January 2026. He has been trying to get access to the Property to undertake essential repairs and ensure that all required certification is up to date. He has not been able to gain access. He did look through the windows about two months ago to see that the Property was in the same state or worse. Mr Valerio is very concerned about the welfare of the Respondent if she continues to live in the Property. He and the Applicant have tried to get the local council involved due to their concerns but have been told as it is a private tenancy there is nothing that the local authority can do to help the Respondent. He is of the view that the state of the Property must be affecting her health.
13. Mr Valerio said it is the intention of the Applicant to sell the Property once there is vacant possession. He anticipates that it will need to be gutted first. When he visited the Property in January 2026 the carpet was squelching as he walked on it. He suspects that is due to a leak from the kitchen. He has tried to gain access to the Property to fix it but has not been able to get into the Property. He said he suspects that the repairs will be more than the Property is worth. It may be that it is sold as seen to allow someone else to develop it. Mr Valerio said that he has been told that it will take an industrial dehumidifier to dry out the Property. The Property will need a new kitchen and bathroom. These repairs alone would need the Respondent to be evicted to allow that work to be undertaken as it would take some months potentially.
14. The Tribunal discussed the motion to supersede the Order. Ms Mathieson said that it will allow for North Ayrshire Council to find a property to allocate to the Respondent. The Tribunal asked if this was effectively a stalling aspect as they

will have a duty to rehouse. Ms Mathiesons said that this was to give them a chance to find a property for the Respondent without needing to look at homeless accommodation. It was noted that there was no guarantee of this in this time frame. Mr Valerio said that it would just mean that the Respondent was living in these conditions for longer. He doubted that any of her belongings would be in a condition to put into storage given the state of the Property.

15. The Tribunal was content that there were no issues of reasonableness to prevent an order for eviction being granted particularly given that it is not opposed. The Tribunal superseded the Order for one month to 2nd November 2026. It noted that there was a vulnerable adult application in. The granting of this order may put some urgency upon that application. This will then allow two months from now before the Order can be enforced. There will be the requirement of a 14 day notice which means that the Respondent has almost three months in total to be rehoused. However, extending it beyond that would potentially increase issues risen such as damage to the Property and affecting the Respondent's health.
16. Mr Valerio confirmed that there is no notice period required if the Respondent is rehoused before the Order can be enforced. The Respondent will need to notify him that she is leaving and return the keys.

Findings and reason for decision

17. The Applicant is the registered owner of the Property.
18. A Short Assured Tenancy agreement which commenced 1st November 2015 until 30th October 2016. A copy of the AT5 was not provided but the lease did state that the Respondent had seen it and accepted it. Given the duration of the time since the lease started the Tribunal accepted this point. The Respondent listed no objection.
19. A Section 33 Notice was served upon the Respondent dated 2nd July 2025.
20. The Notice informed the Respondent that the Applicant wished to seek recovery of possession using the provisions of the Act.
21. The Notice was correctly drafted and gave appropriate periods of notice as required by law.
22. The Respondent is not opposed to the granting of an order. The Respondent's representative has spoken to her local authority housing department. They are trying to rehouse her in the mainstream housing but require more time to be able to do that. If she cannot be rehoused in the mainstream housing the local authority will rehouse her as homeless.

Reasons for the decision

23. The Applicant's letting agent has sent letters to the Respondents on various dates in compliance with the provisions of the pre action protocols set out in the

Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020

24. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
25. The Property is in an extremely poor and unkempt state. The Respondent's representative has lodged a vulnerable adult application with the social work department to seek assistance to clear and clean the Property. The Tribunal deemed this reason to supersede the Order by one month.
26. The issue of reasonableness, while fully considered, was viewed in the context of the action not being opposed. Accordingly, this weighed in the favour of granting the Order.
27. In all the circumstances the Tribunal decided that it was reasonable to grant the order sought.

Decision

28. The Tribunal granted an order in favour of the Applicant.

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.

Gabrielle Miller

3rd September 2026

Legal Member/Chair

Date