



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 (“1988 Act”)

Chamber Ref: FTS/HPC/EV/26/2270

Re: 23 Pettycur Bay, Kinghorn, Burntisland, KY3 9SB
 (“the Property”)

Parties:

Mrs Joyce Ann Brown, 5 Pettycur Bay, Kinghorn, Burntisland, KY3 9SB
 (“the Applicant”)

Ms Veronica Tyre, 23 Pettycur Bay, Kinghorn, Burntisland, KY3 9SB
 (“the Respondent”)

Tribunal Members:

Pamela Woodman (Legal Member) and Frances Wood (Ordinary Member)

Present:

The case management discussion took place at 2pm on Thursday 1 October 2026 by telephone conference call (“**the CMD**”). The Applicant was present and was represented by Ms Olivia McGowan of Innes Johnston LLP. The Applicant’s husband was also present. The Respondent was not present. The clerk to the Tribunal was Danielle Torbet.

Decision

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

BACKGROUND

1. An application was made to the Tribunal under section 33 of the 1988 Act. The application was made in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“**HPC Rules**”) which are set out in the schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. More specifically, the application was made in terms of rule 66 (*Application for order for possession upon termination of a short assured tenancy*) of the HPC Rules.

2. The order sought was an order for possession of the Property.
3. The application form was dated 19 May 2026.
4. A notice of acceptance of the application was issued by the Tribunal dated 29 October 2025 under rule 9 of the HPC Rules.
5. The Respondent provided handwritten submissions in advance of the CMD by letter dated 27 August 2026 ("**Respondent's Letter**"), which was received by the Tribunal's administration team on 31 August 2026.
6. This decision arises out of the CMD.

PROCEEDINGS

7. In the Respondent's Letter, the Respondent had:
 - a. confirmed that she understood the contents of the case paperwork;
 - b. set out information on her receipt of benefits and other practical support;
 - c. confirmed that she was in contact with Fife Council about rehoming;
 - d. explained her condition and why she would not be attending the CMD; and
 - e. noted that she understood the "likelihood of an order for eviction" and asked for an extended period of "perhaps 6 - 8 weeks" before the eviction.
8. The Applicant confirmed that the Respondent had always paid her rent on time.
9. The Applicant confirmed that no modifications / adaptations had been made to the Property in order to accommodate the Respondent.
10. The Applicant also noted that the Respondent did not speak to the Applicant, nor did the Respondent let the Applicant into the Property.
11. The Applicant noted that she had first asked the Respondent to move out of the Property in 2019.
12. The Applicant confirmed that the property owned by her husband, in which her son and grandson had been staying, had been sold in May 2026.
13. On the question of reasonableness, the Applicant's representative explained that the Applicant's son and grandson had (since the Applicant's husband's property had been sold) been moved into a "scatter flat", being temporary homeless accommodation provided by the local authority, and that both of the son and grandson had been stressed by the situation. It was further explained that a private let would be too expensive for the Applicant's son and that he was not in a position to take out a mortgage.

FINDINGS IN FACT

14. The form AT5 dated 14 June 2011 appeared on the face of it to be valid. Taking into account the signed and witnessed form AT5 receipt, the Tribunal was satisfied, on the balance of probabilities, that the form AT5 would have been served before the creation of the tenancy agreement. The term of the tenancy was for an initial term of over six months (from 14 June 2011 to 14 December 2011). Therefore, the Tribunal was satisfied, on the balance of probabilities, that the tenancy was a short assured tenancy as defined in section 32 of the 1988 Act.
15. The notice to quit dated 4 December 2025 brought the tenancy to an end on a possible ish date (namely 14 February 2026), allowed for an adequate period of notice and contained the information prescribed in The Assured Tenancies (Notices to Quit Prescribed Information) (Scotland) Regulations 1988. Accordingly, it met the requirements for a valid notice to quit.
16. The notice under section 33(1)(d) dated 4 December 2025 met the requirements of section 33(1)(d) of the 1988 Act and allowed for an adequate period of notice and so met the requirements for a valid section 33 notice.
17. A notice under section 11 of the Homelessness etc (Scotland) Act 2003 had been sent to the local authority by e-mail on 16 April 2026.

REASONS FOR DECISION

18. Section 33(1) of the 1988 Act provides that "...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;
 - c. [REPEALED]
 - 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."
19. The Tribunal was satisfied, on the balance of probabilities, that the tenancy was a short assured tenancy, that it had been brought to an end on its ish date, that tacit relocation was not operating (as a result of the service, and expiry of the period of notice under, the notice to quit) and that the Respondent had been given notice that the Applicant required possession of the Property (as a result of the service, and expiry of the period of notice under, the section 33 notice). Accordingly, the only remaining factor to consider was whether or not it was reasonable to make an order for possession.
20. The Tribunal was satisfied, on the balance of probabilities, that it was reasonable to grant an order for possession because:

- a. The Respondent did not object to the granting of an order for possession and, in the Respondent's Letter, indicated that "the ONLY reason [she had] remained in this property [was] the low radiation in the back bedroom".
- b. Based on the Tribunal's own knowledge and experience, an order for possession would likely be of assistance to the Respondent in seeking alternative accommodation through the local authority or a housing association.
- c. The requisite notices etc had been served on the Respondent in December 2025, which was approximately ten months prior to the date of the CMD.
- d. The Applicant and her representative had provided written and oral evidence satisfactory to the Tribunal that the Property was required to provide a residence / home for her son and grandson.
- e. Given that it may be more difficult to rehouse the Respondent in light of her condition, a longer period should be allowed before the order may be enforced to allow the local authority a longer period of time to find alternative accommodation for the Respondent. A period of approximately 8 weeks was considered to be reasonable.

DECISION

21. The Tribunal decided that an order be granted against the Respondent for possession of the Property under section 33 of the 1988 Act, which order was not to be executed prior to 12 noon on Tuesday 1 December 2026.

Right of Appeal

In terms of Section 46 of the Tribunals (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.

P S Woodman

Chair

1 October 2026

Date