



Decision 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/25/3572

Re: Property at 23 Craighour Crescent, Edinburgh, EH17 7PL (“the Property”)

Parties:

Mr Patrick Gallagher, 2/6 Lochend Drive, Edinburgh, EH7 6DW (“the Applicant”)

Ms Claire Selcraig, 23 Craighour Crescent, Edinburgh, EH17 7PL (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

Background

1. By application, dated 20 August 2025, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy. The Application stated that the Applicant intends to sell the Property and required vacant possession in order to do so.
2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, running from 10 January 2016 until 10 July 2016, and, if not terminated on that date, continuing on a monthly basis thereafter, a Form AT5 Notice dated 10 January 2016, and copies of a Notice under Section 33 of the 1988 Act and a Notice to Quit, both dated 7 May 2025 and both requiring the Respondent to vacate the Property by 10 July 2025.
3. On 27 January 2026, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 17 February 2026.

4. On 3 February 2026, the solicitors for the Applicant, Nisbets solicitors and solicitor-advocates, Edinburgh, provided the Tribunal with copy correspondence to the Applicant from his financial adviser, which indicated that in June 2026, when his present deal expires, his monthly mortgage payments would increase from £140 to £280 and he would have to pay a product fee of £1,750 to the lenders. The solicitors asked that this be taken into consideration by the Tribunal in determining whether it would be reasonable to make an Order for Possession.
5. On 25 February 2026, the solicitors for the Applicant told the Tribunal that the representatives for the Respondent had advised them that she was not contesting the application, provided an eviction could not happen before 7 May 2026. This would be acceptable to the Applicant. It was also confirmed directly to the Tribunal by the Respondent's representatives, Community Help & Advice Initiative ("CHAI") on 9 March 2026 that this was the Respondent's position.
6. As the Parties were agreed as to the way forward, the Tribunal decided that it would not be necessary to hold the Case Management Discussion scheduled for 12 March 2026 and that it would determine the application on the basis of the information before it.

Reasons for Decision

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
8. Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.
9. The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was no longer operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given. The remaining matter for the Tribunal to consider was, therefore, whether it would be reasonable to issue an Order for Possession.
10. In arriving at its decision as to whether it would be reasonable to make an Order for Possession, the Tribunal noted that the Applicant wishes to sell the Property and that his monthly mortgage payments will double if he does not do so before his current mortgage deal expires in June 2026. The Tribunal

also noted that the Respondent is not contesting the application, provided the earliest date of enforcement of an Order for Possession is 7 May 2026.

11. Having considered all the evidence before it, the Tribunal decided that it would be reasonable to make an Order for Possession and that it should not be capable of enforcement before 7 May 2026.

12. The Tribunal's decision was unanimous.

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.

George Clark

Legal Member/Chair

12 March 2026
Date