



**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”)**

Chamber Ref: FTS/HPC/EV/25/0867

**Re: Property at Nether Phawhope Cottage, Nr Ettrick, Selkirkshire, TD7 5JD
 (“the Property”)**

Parties:

**Mr Garth Weston, Sydenham Grange, Thame Park Road, Thame, OX9 3PR
 (“the Applicant”)**

**Mr Robert Willmott, Nether Phawhope Cottage, Nr Ettrick, Selkirkshire, TD7
 5JD (“the Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to recall the eviction order granted on 7 January 2026.

The Tribunal thereafter determined to make an eviction order anew under section 33 of the 1998 Act with execution of the order suspended until 31 August 2026.

Background

- 1** This is an application for an eviction order under section 33 of the 1988 Act and rule 66 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant sought an eviction order on the basis that the short assured tenancy between the parties had been terminated.
- 2** By decision dated 7 January 2026, the tribunal made an eviction order with execution of the order suspended for a period of six weeks. The decision was issued to parties on 22 January 2026.

- 3 On 23 January 2026 the Respondent submitted an application for recall of the eviction order. The Applicant opposed this. The tribunal therefore determined to fix a case management discussion at which it would consider the application for recall.

The case management discussion (“CMD”)

- 4 The CMD took place on 15 April 2026 by teleconference. The Applicant joined the call along with his representative Mr David Aiton of Sinclair Services. The Respondent was also in attendance.
- 5 The tribunal explained the purpose of the CMD and proceeded to hear submissions from the parties. It transpired that the Respondent no longer wished to oppose the application for an eviction order, and that both parties were broadly in agreement with a delay in the execution of the order until 31 August 2026 to allow the Respondent sufficient time to secure alternative accommodation and vacate the property. It was clear that both parties were keen to draw a line under the matter to give them some certainty moving forward.
- 6 The tribunal adjourned the CMD to deliberate, at which point parties left the call, before resuming the proceedings and confirming the outcome.

Findings in fact

- 7 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a short assured tenancy agreement.
- 8 The Applicant has given the Respondent a notice to quit terminating the short assured tenancy at the ish.
- 9 The Applicant has given the Respondent notice under section 33(1)(d) of the 1988 Act that he requires possession of the property.
- 10 The Respondent does not oppose the granting of an eviction order provided he is given sufficient time to vacate the property.

Reasons for decision

- 11 Having heard the submissions from the parties, the tribunal considered that it would be in the interests of justice for the eviction order granted on 7 January 2026 to be recalled. Both parties had confirmed their agreement with this course of action and had no objection.
- 12 Thereafter, there were no issues to be resolved that would require a hearing to be fixed and the tribunal considered it could proceed to a final decision on the application at the CMD. The tribunal was satisfied based on the documents and submissions before it that the provisions of section 33(1) of the 1988 Act were met. There was no contradictory evidence before the tribunal. Furthermore, on

the basis that the Respondent no longer opposed the application provided he be given time to secure alternative accommodation, the tribunal considered it would be reasonable to make an eviction order with execution of the order suspended until 31 August 2026.

13 As an observation, the tribunal would again highlight the obligations incumbent on the local authority to provide advice and assistance to the Respondent regarding his housing situation and would encourage the Respondent to pursue such assistance if required.

14 The decision of the tribunal 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.

Ruth O'Hare

15 April 2026

Legal Member/Chair

Date