



**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/25/2028

Re: Property at 0/2, 43 Coplaw Street, Glasgow, G42 7JE (“the Property”)

Parties:

Harry Smith Limited, 65 Bath Street, First Floor Right, Glasgow, G2 2BX (“the Applicant”)

**Mr Dawood Bibi, Ms Saiqa Akram, 0/2, 43 Coplaw Street, Glasgow, G42 7JE
 (“the Respondent”)**

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction. The Tribunal determined to suspend enforcement of the order until 31 July 2026.

Background

1. By application accepted on 12 June 2025 the applicant seeks an order for eviction relying on section 33 of the Housing (Scotland) Act 1988 (“the Act”).
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Copy form AT5

- Copy Notice to quit with proof of service
 - Copy section 33 notice with proof of service
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2001 with proof of delivery
3. A case management discussion (“cmd”) took place on 21 November 2025 via teleconference. The applicant was represented by their solicitor, Ms Gillan, Mitchells Robertson, solicitors. The Respondents were represented by Ms McBride, solicitor, Govanhill Law Centre.
 4. It was a matter of agreement at the cmd that the tenancy between the parties was a short assured tenancy that had commenced in July 2017. It was accepted that a Notice to Quit and a notice in terms of section 33 of the Act had been properly served on the respondents on 23 December 2025.
 5. The solicitors for the parties agreed that the only matter for determination by the tribunal was whether it was reasonable to grant the eviction order. At the cmd it was noted that the applicant had offered to postpone eviction for 9 months to allow the respondent’s to find alternative accommodation however this offer had been rejected by the respondents. The Tribunal determined to fix a hearing confined to the issues of reasonableness.
 6. Prior to the hearing the applicant submitted the following additional documents:
 - Witness statement from Gillian Hamilton
 - Quotation from Atom Contracts
 - Photographs of the interior of the property
 - Email from estate agent
 - Additional written submissions
 7. Prior to the hearing the respondents submitted the following documents:
 - Report from Govanhill Health Centre
 - Notices to quit and section 33 notices x 4
 - Additional written submissions

Hearing – videoconference – 30 April 2026

8. The applicant was represented by Ms Forrest, solicitor, Mitchells Robertson solicitors. The respondents were both present with their solicitor, Ms McBride. The Tribunal heard evidence from Alan Condy and Gillian Hamilton on behalf of the applicant. The Tribunal heard evidence from both respondents. Solicitors were given the opportunity to cross-examine witnesses. A summary of the evidence heard is undernoted. For the avoidance of doubt this is not a verbatim record of the evidence heard.

Summary of Gillian Hamilton's evidence

9. A witness statement signed by Gillian Hamilton had been submitted. Her oral evidence was a largely a restatement of that information. Ms Hamilton stated that she is a senior property manager at Belvoir Property. She started managing the property around October 2022. She stated that she had inspected the property and noted that the property required multiple repairs. She stated that a number of repairs had been carried since her company took over management of the property however in her view extensive repairs were now required which would require the tenants to move out. Ms Hamilton stated that the property is a 2 bedroom flat. The current rent is £575. She stated that as far as she was aware the rent had not been increased since the respondent moved in in 2017. She stated that the current market rate for the type of property was approximately £900-£1,000 per month.
10. Ms Hamilton stated that the property was unsuitable for a family of 5. She had been asked by the landlord to assess what works would be required to refurbish the property. She had instructed a quotation from Atom Contracts Ltd which had been submitted and that estimated the cost of the refurbishment works to be £18,000. The works required included a new kitchen and bathroom, full interior decoration, new floor coverings and replacement windows and internal doors.

11. Ms Hamilton stated that the landlord company is a small family run business operated by David Levitus who is a director and retired accountant and his father, Raymond Levitus who is 87 years old. They had decided that they wanted to sell the property as they no longer wanted to be landlords. Ms Hamilton stated that they had found the process of recovering the property very stressful. David Levitus had recently been unwell and his father was older. Both were concerned about the condition of the property and the overcrowding.

12. Ms Hamilton stated that there had been a discussion about whether the works could be carried out with the tenant's remaining in the property however it was not an option.

13. Ms Hamilton stated that she had not been approached by the respondents' with a view to finding any alternative property.

Summary of Alan Condry's evidence

14. Mr Condry confirmed that he is director of Atom Contracts Ltd, a company that specialises in refurbishing and maintenance of properties. He stated that he had been asked to inspect the property in February 2026 to provide a list of works that would be required to bring the property up to a reasonable standard. Mr Condry stated that he visited the property and systematically went through each room noting what was needed to bring the property back up a reasonable standard.

15. Mr Condry was referred to the photographs of the property that had been submitted. He confirmed that he had taken the photographs during his inspection and prepared the quotation that had been submitted which showed the work that was required. He stated that the property was very congested with the respondents' furniture and belongings. He stated that the flooring all needs replaced and all walls redecorated, with possible replastering required before painting due to heavy staining. Mr Condry stated that it was absolutely not possible for the work to be done with tenants in situ. He stated that the

kitchen, bathroom and flooring would require to be ripped out. He stated that the chipboard flooring would require to be cut up and removed. These works would leave exposed holes and trip hazards and it would be necessary to leave materials onsite. Mr Condry stated that every room needed extensive work and it would not be possible from a health and safety perspective to carry out the works safely with so many occupants and so much congestion from their possessions in the property. Mr Condry stated that it would be necessary to turn off the water at times whilst the work was being carried out which would remove the water supply from the kitchen/bathroom for the tenants.

16. Mr Condry was asked whether the works might be staggered. He stated that a problem with staggering the works was that the occupants would be left with no water as there was only one working bathroom in the property. He stated that it would be very difficult to stagger the works to allow the tenants to remain and that he would not be prepared to carry out the works necessary in the property with the amount of people in the property. He stated that the works would require 6 to 8 weeks to complete.

Summary of Saiqa Akram's evidence

17. Ms Akram confirmed that she resided in the property with Mr Bibi and their 3 children aged 18, 16 and 13.

18. Ms Akram stated that she is affected by high blood pressure, diabetes and anxiety. She stated that she has been on medication as a result of stress for the previous 2 years. She stated that her condition has been affected by the stress of the present proceedings which had also led to difficulty sleeping. She stated that sometimes her medical conditions affect her day-to-day activities and sometimes they do not.

19. Ms Akram stated that the property is close to her GP surgery, She stated that it would be difficult for her to move home as she would have to move GP and would not be close to shops. She stated that she does not feel comfortable having to travel long distances to attend appointments.

20. Ms Akram stated that the property needs a lot of work done. She stated that when the family moved in they reported that the shower was leaking. This had still not been repaired. She stated that the kitchen counter is broken and the living room flooring needs repaired. Ms Akram stated that these issues had been present for over 3 years even though she had reported them to the letting agents. She stated that she had reported the matter to the local authority as well.
21. Ms Akram stated that 2 to 3 months previously someone had attended the property to get an estimate for the repairs work that needed to be done.
22. Ms Akram stated that she has been receiving support from the private rental hub to try and find alternative accommodation. She stated that her income is £952 per month from benefits. She stated that she has been actively looking for properties. She stated that she needs a 4 bedroom property. She stated that 4 bedroom properties are not common and are unaffordable for her.
23. Ms Akram stated that she is applying for housing association properties however she has not applied to the local authority for housing. She stated that she currently receives universal credit housing costs which covers the cost of the rent in the property.

Summary of Dawood Bibi's evidence

24. Mr Bibi stated that he lived with his wife, their 2 sons and 1 daughter. The 2 youngest children attend local schools. Within the property there are 2 bedrooms. Mr Bibi shares a bedroom with one of his sons. Ms Akram shares the other bedroom with the 2 other children.
25. Mr Bibi stated that the property was in a poor condition. There was an issue with one of the bathrooms when the tenancy commenced. He stated that he is under a lot of mental pressure due to the condition of the property and the present eviction process. Mr Bibi stated that he had made numerous complaints to letting agents regarding the condition of the property however repairs had

not been carried out. He stated that the family were impacted by the condition of the property and did not enjoy living there.

26. Mr Bibi stated that if it was possible he would like the family to remain in the property whilst refurbishment works were carried out. He stated they have tried their best to find another property and haven't found anything.

27. Mr Bibi stated that he has an issue with his brain which caused seizures. These can happen once or twice in a day or less frequently. He goes for a CT scan every 6 months.

28. Mr Bibi stated that he is employed in a takeaway where he earns £900 per month. He stated that he might not be able to continue with the job if he had to move as the takeaway is close to the property. He stated that he has not used public transport as he is illiterate and would find it hard to travel by himself.

29. Mr Bibi stated that he has been looking for a property in the same area however it is unaffordable. He stated that the family would suffer if they moved to another area as their friends and support network are close by as are the children's schools. He stated that they have applied for housing associations however he has not looked for alternative private accommodation outside of his current area.

Findings in fact

30. The parties entered into a short assured tenancy agreement with a commencement date of 2 July 2017.

31. Monthly rent in terms of the short assured tenancy agreement is £575.

32. There has been no increase in the rental charge since the tenancy commenced.

33. The property is a two-bedroom flat. The property consists of 2 bedrooms, one of which has an en-suite bathroom, living room, kitchen and bathroom.

34. The monthly rent is below the market rent for similar sized properties in the local area.
35. A valid notice to quit and section 33 notice was served on the respondents on 23 December 2025.
36. The applicant had previously served notices to quit and section 33 notices on the respondents on a number of occasions dating from 30 January 2024.
37. The respondents reside in the property with their 3 children aged 18, 17 and 13.
38. The respondent's 2 younger children attend local high schools.
39. The property requires extensive refurbishment and repairs including replacement of the kitchen and bathrooms, replacement windows, new flooring throughout, replacement of doors and full interior redecoration.
40. The respondents are overcrowded in the property which is congested with furniture and personal possessions.
41. Repair and refurbishment works cannot reasonably be carried out with the respondents and their family residing in the property. Refurbishment works would require disruption of essential services and present a health and safety risk to the occupants.
42. The applicant intends to refurbish and then sell the property.
43. The first respondent is employed at a local takeaway.
44. The respondents' income comprises the first respondent's income from employment and universal credit including housing costs which covers the current rent charge.

- 45. The first respondent has been diagnosed with an aneurysm. The aneurysm was discovered incidentally and is monitored every 2 years. He is on no regular medication.
- 46. The second respondent reports suffering from anxiety, diabetes and high blood pressure.
- 47. The respondents wish to remain in the area where they currently live.
- 48. The respondents have applied for housing association properties.

Reasons for the decision

49. Section 33 of the Housing (Scotland) Act 1988 states:

33 (1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, 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)

(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.

50. In the present application it is not disputed that the applicant has satisfied the requirements of section 33 (a), (b) and (d). The Tribunal is satisfied that a short assured tenancy was created when the respondents moved into the property. A notice to quit and notice in terms of section 33 were served on 23 December 2025. The notice to quit had the effect of preventing tacit relocation from

operating. The section 33 notice provided the respondents with notice that the applicant required possession of the house.

51. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. It is well established that in determining whether it is reasonable to grant an order all relevant circumstances are taken into account, including personal circumstances, *Barclay v Hannah* 1947 SLT 235 and *Cumming v Danson* 2 ALL ER 653. The Tribunal had regard to the Upper Tier Tribunal's decision in *Caroline Manson and David Downie against Virginie and Iain Turner* UTS/AP/23/0018 – in determining whether it was reasonable to grant an order the Tribunal was required not only to identify the factors which it had taken into account, but also to explain why it had given more weight to those factors supporting the conclusion which it reached, relative to those which pointed the other way. Parties should be left in no doubt as to why the Tribunal reached the conclusion that it did. In assessing whether it is reasonable to grant an order all available facts relevant to the decision required to be considered and weighed in the balance, for and against. The Tribunal also had regard to *Boyd v Ford* 2023 UT 04 - the Tribunal required to “*identify all of the relevant circumstances, both favouring granting and not granting an order for possession, and to weigh those in the balance in assessing the reasonableness of granting such an order.*” .

52. The Tribunal took into account the application and documents lodged by the parties together with the oral representations and evidence heard at the hearing in reaching a decision.

53. The evidence presented to the Tribunal by both sides was largely undisputed. The Tribunal found the evidence of Ms Hamilton and Mr Condry to be credible and reliable. Both witnesses are independent professionals. The Tribunal determined that the property required extensive upgrading and refurbishment and accepted Mr Condry's detailed evidence on what was required. The Tribunal accepted his clear evidence that it would not be possible for the required works

to be carried out with the respondents continuing to reside in the property. The Tribunal took into account that the condition of the property would deteriorate if significant works were not carried out.

54. The Tribunal accepted Ms Hamilton's evidence that the applicant was a small family business where the directors had a genuine intention to sell the property due to their personal circumstances. The Tribunal also accepted Ms Hamilton's evidence that after her company began managing the property piecemeal repairs had been carried out however, these did not address the larger items of work that required to be carried out.

55. The Tribunal took into account that the applicant's directors did not attend the hearing to provide evidence directly. It was noted that one of the directors is 87 years old whilst the other has been affected by health issues. The Tribunal took into account that the applicant had previously offered to extend the period before an order was enforced by 9 months which showed that they were aware of the impact of an order on the respondents. The Tribunal also took into account that the rent in the property had not been increased since the tenancy commenced in 2017.

56. The Tribunal took into account that no evidence had been presented to show that there were any pressing financial circumstances leading to the applicant's intention to sell the property and that the respondents were up to date with their rental payments.

57. The Tribunal took into account that there had been previous notices served on the respondents who had been aware that the applicant intended to recover the property since January 2024. This was an extended period of time when the respondents had been aware of the applicant's intentions.

58. The Tribunal gave considerable weight to the fact that the respondents had resided in the property since July 2017. The property had been a family home for their children during that period. The Tribunal also gave weight to the fact that the family were well settled in the area with their youngest children attending local schools. Moving home would be disruptive to the children. Against that the Tribunal took into account that the children were at an age where public transport could be used to travel to school in the event that they moved house.

59. The Tribunal took into account the information that had been provided in relation to the first respondent's health. The Tribunal noted that the information provided by the first respondent in his evidence, that he suffered regular seizures and was monitored on a six monthly basis did not correlate with the medical report dated 21 April 2026 that had been submitted. The Tribunal found the first respondent's evidence on the impact of his health issues lacked credibility as a result. The medical report that had been submitted stated that an aneurysm had been discovered incidentally and was monitored biannually. It stated that the first respondent was on no regular medication. The Tribunal gave limited weight to the first respondent's evidence on this point.

60. The Tribunal found the first respondents' evidence that he could not move to another area of Glasgow as he would be unable to use public transport to travel to work lacked credibility. Whilst the first respondent had issues with literacy the Tribunal did not consider it beyond his ability to navigate the public transport system with some support provided by friends or family members.

61. The Tribunal gave some weight to the evidence from the second respondent that she suffered from diabetes, blood pressure, stress and anxiety. However, no medical evidence had been produced to support her oral evidence such as a GP report and it was not clear that the medical conditions had a severe effect on her day to day activities. The second respondent stated that she was

sometimes affected by her medical conditions but on some days was not. The Tribunal did not give great weight to the second respondent's evidence that she required to live very close to her GP as it considered it would be reasonable for her to attend a different GP if she moved house or arrange to use public transport to travel to medical appointments.

62. The Tribunal gave weight to the fact that there had been no issues relating to the respondents' conduct as tenants. The Tribunal also took into account that they had made complaints about the condition of the property, including the shower since the tenancy commenced. The Tribunal considered whether the failure of the applicant to carry out repairs had contributed to the current situation where extensive works were required. However, no supporting evidence to demonstrate that the respondents had been actively raising the issue of the condition of the property had been produced, for example evidence of communication with the letting agents or correspondence with the local authority. The Tribunal gave limited weight to this issue due to the lack of corroborating evidence.

63. The Tribunal took into account that the respondents wished to stay in the property and were prepared to put up with disruption during refurbishment works. Whilst the property is not statutorily overcrowded the Tribunal determined that it was concerning that 5 occupants shared 2 bedrooms. The issue with overcrowding would likely become more severe as the respondents' children grew older. The second respondent had stated in her evidence that the family were seeking a 4 bedroom property in their housing association applications which was likely in accordance with standard allocations policies.

64. The Tribunal noted that the respondents did not have an active application for housing with the local authority. The Tribunal considered that the respondents had been restrictive in their search for alternative private accommodation as they had looked only in their current area rather than broadening their search

to more affordable areas. No documentary evidence had been submitted to show what efforts had been made to search for alternative suitable accommodation.

65. The Tribunal determined that when balancing the competing factors the fact that the required refurbishment works could not be carried out with the respondents in the property and the unsuitability of the property for the number of occupants were significant factors in favour of granting an order.

66. Taking the foregoing factors into account the Tribunal determined that on balance it was reasonable to grant an order for eviction. The Tribunal determined to suspend enforcement of the order until 31 July 2026 to allow time for the respondents to take steps to secure alternative accommodation.

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.

M-C.Kelly

Date: 30 April 2026

Legal Member/Chair