



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) and Rule 24 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/1811

Re: Property at 26 New Road, Kennoway, Fife, KY8 5JR (“the Property”)

Parties:

Mr William Mitchell, The Elms, The Causeway, Kennoway, KY8 5JU (“the Applicant”) per his agents, Robert F MacDonald 11 Wemyssfield Kirkcaldy KY1 1XN (“the Applicant’s Agents”)

Ms Rosemary Morris, 26 New Road, Kennoway, Fife, KY8 5JR (“the Respondent”) per her representative, Mr. Martin Ryder, residing at 26 New Road, Kennoway, Fife, KY8 5JR (“the Respondent’s Representative”)

Tribunal Members:

Karen Moore (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory process having been carried out, it is reasonable to grant the Order sought.

Background

1. By application received between 28 April 2025 and 12 August 2025 (“the Application”), the Applicant’s Agents on his behalf applied to the Tribunal for an Order for possession of the Property based on the service of statutory notices to bring the tenancy to an end. The Application comprised copy Notice to Quit and copy Section 33 Notice with proof of service, copy short assured tenancy agreement with relevant AT5 between the Parties and copy notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Fife Council, being the relevant local authority.
2. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 9 February 2026 at 10.00 by telephone conference. Prior to the CMD, both Parties submitted written representations with supporting evidence.

CMD

3. The CMD took place on 9 February 2026 at 10.00 by telephone. The Applicant, Mr. Mitchell, was not present and was represented by Ms. Chalmers of the Applicant’s Agents. The Respondent, Mrs. Morris, was present and was represented by Mr. Ryder. The Tribunal noted from the Respondent’s written representations that the Application was opposed in respect of reasonableness and noted from the Applicant’s written representations that the Applicant refuted the Respondent’s position. The Parties advised the Tribunal that there was no scope to agree matters. Therefore, the CMD was adjourned to a Hearing of evidence and issued a Direction in respect of the Hearing procedure.
4. Prior to the Hearing, the Parties submitted updated representations, with the Respondent’s Representative submitting video evidence.

Hearing

5. The Hearing took place on 26 June 2026 at 10.00 in person at Fife Voluntary Centre, Kirkcaldy. The Applicant, Mr. Mitchell, was present and was represented

by Ms. Chalmers of the Applicant's Agents. The Respondent, Mrs. Morris, was present and was represented by Mr. Ryder.

Applicant's Evidence

6. Mr. Mitchell gave evidence on his own behalf. He stated that he has been a professional landlord for around twenty-five/ twenty six years and owns twenty seven properties. He stated that, in that time, he has only had to evict one tenant and that his tenancies are longstanding.
7. Mr. Mitchell stated that this tenancy is different from the others as his relationship with Mrs Morris has become difficult. He explained that his role as a landlord is not just to collect rent but to get on with his tenants. In respect of the Property, he said that he got on well with Mrs Morris at the outset and had given permission for her to keep two dogs. However, became aware from his property managers, Mrs. Gear and his daughter, Kelly, that Mrs Morris had increased the animals kept at the Property to four dogs, three cats, some birds, some quails and numerous chickens and that the house had deteriorated into a poor state. He stated that Mrs. Morris advertises the Property for animal rescue and advertises eggs for sale.
8. Mr. Mitchell explained that for some time he has had difficulty obtaining access to inspect the property and carry out repairs. He stated that he has had to contact the tribunal chamber to get access to inspect and carry out work. Mr. Mitchell's position is that Mrs. Morris does not engage for repairs and does not allow contractors access. He stated that a constant issue is that contractors who have a scheduled time but are late by a few minutes are not given access. Mr. Mitchell expressed concern in respect of the health and safety as he has not been able to carry out electrical and gas safety checks. Mr. Mitchell stressed that the eviction process has been a last resort.
9. With reference to Herd Pest Report dated 22 July 2024 lodged on his behalf, Mr. Mitchell explained that he engaged a housing inspector, Mr. Scott Herd, to survey the Property and make recommendations. Mr. Herd advised verbally that Mr. Mitchell should get the house back to renovate it. With reference to Mr.

Herd's report, Mr. Mitchell pointed out that, in addition to the animals, the Property is in a poor condition, that there are many flies and a bad smell in the Property and that an excess of items is being stored.

10. Mr. Mitchell explained that he has had to instruct contractors from Dundee as local workers refuse to attend because of the condition of the Property. Mr. Mitchell stated that Mr. Ryder, Mrs. Morris's son, constantly make false complaints that the boiler is not working to cause Mr. Mitchell extra costs in dealing with the contractors.
11. Mr. Mitchell explained that the deterioration in the relationship with Mrs. Morris and her son happened after an incident in 2019 with Mr. Mitchell's estranged wife who occupies the next-door property. He explained that his daughter was concerned at a lack of contact with her mother which resulted in Mr. Mitchell forcing a door to gain entry. Mr. Ryder became involved and there was a strongly worded exchange.
12. Mr. Mitchell stated that, if he recovered possession of the Property, he intended to completely renovate it.
13. In response to cross examination by Mr. Ryder, Mr. Mitchell denied that he had exaggerated the extent of works that had to be carried out. He stated that it has only been since Fife Council became involved in the process that Mrs. Morris has allowed access for repairs. Mr. Mitchell disagreed that he failed to give proper notice of contractors' visits but accepted that often the contractors would call early to assess work before starting their day's work.
14. With regard to increasing the rent after the eviction notice was served, Mr Mitchell pointed out that he had charged Mrs. Morris a reduced rent for most of the tenancy. He denied that he had given permission both to Mrs. Morris turning the garden shed into an aviary and for more than two dogs to be kept in the Property. Mr. Mitchell was firm that Mrs. Morris advertised the Property as an

animal rescue with a sign on the door of the Property and also advertised chicken eggs for sale. He denied permitting this and denied having bought eggs.

15. Mr. Mitchell stood by his letter of July 2024 instructing Mrs Morris to remove the animals. He was firm that his only option was to raise these proceedings as a last resort as Kelly and Margaret, his property managers, advised that the condition of the Property was worsening and they could not get access to inspect for repairs.
16. Mrs. Gear explained that she is the financial manager for Mr Mitchell's property business, that she is the first point of contact for tenants and that she reports to Mr. Mitchell. As set out in her written statement, Mrs. Gear stated that she has managed the Property for some time and over the last few years has become alarmed because the Property has deteriorated with an excess of pets and with cables being led across the hallway. She stated that there are chickens, finches, cats, dogs and quails in the Property, with some in cages and pens. She stated that one room is piled high with furniture. Mrs. Gear stated that she raised concerns with Mr. Mitchell and that it was only when Fife Council became involved that she and her colleague, Kelly, got access to the Property to carry out legionella testing. Mrs. Gear recalled that she attended the Property with her husband on one occasion because of her difficulty in walking. She also recalled an occasion when Mrs. Morris barred the door and was abusive to her and Kelly.
17. Mrs. Gear's evidence was that local workmen refused to attend the Property and that a Dundee based contractor refused to enter the Property due to its condition. She stated that Mr. Ryder recorded everything on his phone or GoPro camera which she found to be intimidating. Mrs. Gear stated that she and Kelly have no difficulties with other tenants and work well with tenants.
18. Mrs. Gear confirmed that she attended the Property with Mr. Herd. She listed the animals being kept in the Property as dogs, cats, chickens and a rooster along with birds. Mrs. Gear was present when Mr. Herd took photographs of the Property. Mrs. Gear stated that she knew from experience that there was a possible infestation of mites from the birds. She recalled a general level of poor

hygiene with a lack of cleaning of the toilets and only a small square of carpet in the bedroom because of the dogs.

19. Mrs. Gear was aware that Mr. Mitchell had issued a letter in 2024 stating that the animals had to be removed, but this did not happen. She noted that damage had been caused by the animals.

20. Mrs. Gear stated it had become difficult to manage the tenancy as there was no response, feedback or engagement from Mrs. Morris.

21. In response to questions from Mr. Ryder, Mrs Gear was firm that the number of birds in the Property would cause an infestation of mites. She agreed that the chickens and quails on the Property were in cages.

22. Mrs. Gear was firm that Mrs. Morris had barred her entry to the Property and had shouted at her in an abusive manner.

Respondent's evidence

23. Mr. Ryder gave evidence on behalf of his mother. He stated that since the incident in 2019 with Mr Mitchell's estranged wife, Mr. Mitchell had acted in a retaliatory way by raising the rent, not carrying out repairs and cancelling planned inspections arranged for February and March 2020. Further, Mr. Mitchell had workmen turn up at random times without prior notice. Mr. Ryder stated that the eviction proceedings had been raised because Mr Ryder had called the police after the incident in 2019.

24. Mr. Ryder's firm position was that Mr. Mitchell had been aware of the number of animals to be kept in the Property at the start of the tenancy and agreed to this. He stated that Mr. Mitchell was aware that Mrs Morris intended to foster dogs and that for years that his mother and he did this without comment by Mr. Mitchell or his property managers.

25. Mr. Ryder explained that after his grandmother died, Mr. Mitchell gave permission for her chickens to be kept at the Property saying: "That it is fine- you do what you need to do".
26. Mr. Ryder stated that, in 2024, the boiler was broken for over three months because of a faulty valve. Mr. Ryder was adamant that he did not make false repair reports and had not tampered with nor tried to replace any of the pipes or the valve. His opinion was one of the plumbers had damaged the valve when attempting to repair the boiler.
27. With regard to refusing access to workman, Mr. Ryder stated that he was reluctant to give access if they arrived at the property around 7:30 a.m. and that Mrs Morris would only object to visits on Wednesdays as she had caring commitments for an elderly person.
28. Mr. Ryder's position is that Mr. Mitchell only fixed the boiler and carried out repairs when Fife Council became involved and when Mrs. Morris raised a Repairing Standards application with the tribunal. Mr. Ryder stated that repairs were carried out two weeks before the tribunal inspection and that Repairing Standard Enforcement Order was made for electrical and gas safety certificates and a legionella report.
29. Mr. Ryder disputed that there was an animal rescue sign but agreed that there had been a sign in respect of selling eggs since 2018, which Mr. Mitchell aware of.
30. Mr. Ryder stated that the number of animals was not excessive and has now reduced as he has moved to his own rented property. He explained that as the bath is not used by either his mother or himself, it used for storage and for the caged finches whilst he was completing work on an aviary. He stated that the quails had been kept in cages in the kitchen until a chicken run was properly finished.

31. With regard to the photographs, Mr. Ryder's position was that he is entitled to take photographs of the landlord and the property managers to record what they are doing in case of any lies.
32. With regard to the workmen, Mr. Ryder stated he has only ever questioned the competence of a handyman who carried out electrical work.
33. With reference to Mrs. Gears statement that Mrs Morris had been abusive to her, Mr Ryder referred the tribunal to the video recording lodged of that incident which did not support Mrs. Gear's evidence.
34. In reply to questions from Mrs. Chambers, Mr. Ryder accepted that he had filmed Mr. Herd as he carried out his inspection. With regard to Mr. Herd's Report, Mr Ryder accepted that the photographs show items stored in the Property and explained that these were Mrs. Morris's late mother's possessions which had been stored to allow another room to be cleared for Mrs Morris's grandsons to visit.
35. Mrs. Morris gave evidence on her own behalf. With regard to the occupants of the property, Mrs Morris advised that she now lives alone, that she is not in employment and is disabled. She stated that she has no savings and cannot afford to move to another property as she cannot afford the costs. She stated that she now has two chihuahuas, two cats and two chickens.
36. Mrs. Morris disputed that the Property is unclean or the bins are overflowing. She did not accept that any damage had been caused to the Property, other than ripped wallpaper before a cat scratching post had been installed.
37. Mrs Morris explained that she would be happy to leave the property but was low on the list for local authority housing as she required a ground floor property and to be able to retain her dogs. She explained that she could not afford to pay the initial costs for a private rental.

Tenancy Agreement issue.

38. During the evidence for the Respondent, it became apparent that the signed tenancy agreement held by Mrs. Morris differed from the copy part signed tenancy agreement lodged with the Application. The agreement held by Mrs Morris does not have a prohibition in respect of keeping pets, whereas the agreement lodged restrict the keeping of pets.

39. Following an adjournment to investigate this issue which did not resolve the issue, the Tribunal advised the Parties that, in its view, as the Application is not raised in respect of a breach of a tenancy condition but is raised following the termination of the tenancy, the different agreements are not relevant. The Tribunal explained that the Application is in effect a “no fault” eviction and that evidence on tenant conduct was being heard in respect of the reasonableness test and not to establish a tenancy breach.

Additional Evidence

40. The Tribunal had the benefit of the productions and statements lodged by both Parties. In particular, Mrs. Gear’s statement, the Herd Pest Control Report, request of access application and invoice for a replacement boiler lodged on behalf of the Applicant, and, video evidence, written representations and screenshots of messages lodged on behalf of the Respondent.

Findings in Fact

41. The Tribunal made the following findings in fact: -

- i) There is a short assured tenancy of the Property between the Parties;
- ii) The correct statutory procedures have been carried out to terminate it;
- iii) The Respondent keeps a number of animals and birds at the Property without the express consent of the Applicant;
- iv) The Applicant encounters difficulties in managing the tenancy;
- v) The landlord/tenant relationship has broken down;
- vi) The Respondent remains in the Property with a number of pets and animals;
- vii) The Respondent does not oppose the Application but is unable to vacate the Property as she does not have alternative accommodation.

Issue for the Tribunal

42. The issue for the Tribunal was to determine whether or not to grant the Order sought. The Tribunal was satisfied that the tenancy has been terminated. Therefore, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

Decision and Reasons for Decision

43. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application is made” (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.
44. The Tribunal accepted the evidence of all of those who gave evidence and took the view that, in the main, the only differences in that evidence were in respect of the different viewpoints. From that evidence, the documentary productions and the video evidence, the Tribunal had no doubt that relations between the Parties have broken down and are irreparable.
45. The Tribunal noted that the Respondent, Mrs. Morris, does not oppose the Application and remains in the Property because she has nowhere else to go. The Tribunal accepted that the Applicant, Mr. Mitchell, is entitled to have control of his property to ensure that it is properly maintained and is being prevented in doing so, to a degree, by Mrs. Morris. The Tribunal’s view is that the whole circumstances have become untenable for both Parties and that it is in the interest of neither that the tenancy continues. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order.
46. The Tribunal was satisfied that, if evicted and made homeless, Mrs. Morris would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance to secure accommodation suitable to her

needs. However, the Tribunal was also mindful that, as an elderly lady with a disability and who has pets and animals, the local authority might require an extended period to source suitable housing. The Tribunal was also mindful that Mrs. Morris might require an additional period of time to rehome some of her pets and animals and to clear the Property. Therefore, the Tribunal considers it fair and just that the eviction order be suspended for a period of three months until 26 September 2026.

47. This decision is 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.

Karen Moore

—
Legal Member/Chair

26 June 2026
Date