Housing and Property Chamber
First-tier Tribunal for Scotland

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 Housing (Scotland) Act 1988 ("the 1988 Act")

Chamber Ref: FTS/HPC/EV/26/2157

Property at 60 Medlar Road, Abronhill, Cumbernauld, G67 3AL ("the Property")

Parties:

Mrs Lorraine Kinninmont, 181 Whiteless Road, Whitlees, Cumbernauld, G67 3DL ("the Applicant")

Miss Angela Walker, Mr William McMurray, 60 Medlar Road, Abronhill, Cumbernauld, G67 3AL ("the Respondents")

Tribunal Members:

Josephine Bonnar (Legal Member) and Andrew McFarlane (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for possession should be granted against the Respondents in favour of the Applicant. The Tribunal also ordered a delay in execution of the order until 30 January 2027 in terms of Rule 16A(d) of the Tribunal Procedure Rules 2017

Background

1. The Applicant seeks an order for possession of the property in terms of Section 33 of the 1988 Act. A tenancy agreement, AT5 Notice, Notice to Quit, Section 33 Notice, and Section 11 Notice were lodged with the application.

2. A copy of the application was served on the Respondents by Sheriff Officer. The parties were notified that a case management discussion ("CMD") would take place by telephone conference call on 11 November 2026 at 2pm and that they were required to participate.

3. The CMD took place on 11 November 2026. The Applicant participated and was represented by Ms Cramb. Both Respondents also participated.

The Case Management Discussion

4. Ms Walker told the Tribunal that they are in a very difficult position. They took advice from the CAB and spoke to the Council's housing department. They were told that they had to stay in the property until an eviction order is granted or they will be regarded as intentionally homeless. Ms Walker also stated that the application is not opposed but they are concerned about timescales as Christmas is approaching and she is not able to take any annual leave during December.

5. In response to questions from the Tribunal, Ms Walker and Mr McMurray told the Tribunal that they live at the property with their adult son. None of them have any additional needs and all three of them are working. They have lived in the property for 12 years and had been told that they would never have to move out. They have tried to find somewhere else to live, without success.

6. Ms Kinninmount told the Tribunal that she did not tell the Respondents that she would never sell but did indicate that she did not plan to do so. The house was her former family home. However, her circumstances have changed. Her son, who lives with her, was recently made redundant and she also has some job-related uncertainty. In addition, she can't afford the ongoing maintenance costs for the property. It is her only rental property and she needs to sell.

7. In relation to the question of a delay in enforcement, The Respondents said that the end of January would give them some additional time as they don't know what is going to happen with the Council. Ms Kinninmount said that she had no objection to a delay until the end of January and would not want to see anyone facing homelessness at Christmas.

Findings in Fact

8. The Applicant is the owner and landlord of the property.

9. The Respondents are the tenants of the property in terms of a short assured tenancy agreement.

10. The Applicant served a Notice to Quit and Notice in terms of Section 33 of the 1988 Act on the Respondent on 24 February 2026.

11. The Applicant wants to recover possession of the property to sell it. She is experiencing some financial difficulties and cannot afford the ongoing maintenance costs for the property.

12. The Respondents do not oppose the application but have been told that they will not be housed by the Local Authority until an eviction order is granted.

13. The Respondents occupy the property with their adult son. All three are in employment.

Reasons for Decision

14. The application was submitted with a short assured tenancy agreement and AT5 Notice. The initial term of the tenancy was 1 November 2014 to 1 May 2015.

15. Section 32 of the 1988 Act states "(1) A short assured tenancy is an assured tenancy - (a) which is for a term of not less than 6 months; and (b) in respect of which a notice is served as mentioned in subsection (2) below. (2) The notice referred to in subsection (1)(b) above is one which – (a) is in such form as may be prescribed; (b) is served before the creation of the short assured tenancy; (c) is served by the person who is to be the landlord under the assured tenancy (or, where there are to be joint landlords under the tenancy, is served by a person who is to be one of them) on the person who is to be the tenant under the tenancy; and (d) states that the assured tenancy to which it relates is to be a short assured tenancy."

16. The Tribunal is satisfied that the tenancy agreement between the parties was for an initial term of six months and therefore meets the requirements of Section 32(1) of the 1988 Act. The Tribunal is also satisfied that an AT5 Notice was given to the Respondents prior to the creation of the tenancy. In the circumstances, the Tribunal determines that the tenancy is a short assured tenancy in terms of section 32 of the 1988 Act.

17. From the documents submitted with the application, and information provided at the CMD, the Tribunal is satisfied that the Applicant served a Notice to Quit on the Respondents on 24 February 2026. The Notice to Quit called upon the Respondent to vacate the property on 1 May 2026, an ish date. The Notice contains the information prescribed by the Assured Tenancies (Notices to Quit Prescribed Information) (Scotland) Regulations 1988 and complies with Section 112 of the Rent (Scotland) Act 1984. The Tribunal is satisfied that the Notice to Quit is valid and that the tenancy contract has been terminated.

18. The Tribunal is also satisfied that the Applicant served a Section 33 notice on the Respondent, also on 24 February 2026. This states that the Applicant requires possession of the property on 1 May 2026.

19. A Section 11 Notice was submitted with the application, with evidence that it was sent to the Local Authority. The Applicant has therefore complied with Section 19A of the 1988 Act.

20. Section 33 of the 1988 Act, (as amended by the Coronavirus (Recovery and Reform) (Scotland) Act 2022) states "(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; (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" Subsection 2 states "The period of notice to be given under subsection (1)(d) above shall be – (1) if the terms of the tenancy provide, in relation to such notice, for a period of more than two months, that period; (ii) in any other case, two months". The Tribunal is satisfied that the tenancy has reached its finish and, as the Applicant has served a valid Notice to Quit, that tacit relocation is not operating. A valid notice in terms of section 33(d) has also been served on the Respondent, giving at least two months' notice that the Applicant required possession of the property.

21. The Tribunal proceeded to consider whether it would be reasonable to grant the order for possession, in terms of Section 33(e) of the 1988 Act.

22. The Tribunal had regard to the following: -

    (a) The application is not opposed. The Respondents have remained in the property because they have not managed to find alternative accommodation but have applied to the Local Authority and been told they will not be offered accommodation until an eviction order is granted.

    (b) The Applicant intends to sell the property to alleviate financial difficulties.

    (c) The Respondents and their son are all in employment.

23. For the reasons outlined, the Tribunal is satisfied that it would be reasonable to grant the order for eviction.

24. The Respondents requested a delay in execution of the order until the end of January 2027. This is not opposed by the Applicant. The Tribunal is satisfied that a delay until 30 January 2027 is appropriate.

Decision

25. The Tribunal determines that an order for possession of the property should be granted against the Respondent.

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.

Josephine Bonnar, Legal Member **11 November 2026**