



**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/24/3042**

**Re: Property at 78 Matthews Drive, Perth, PH1 2UR (“the Property”)**

**Parties:**

**Sandra Sabiston, c/o Macnabs LLP, 10 Barossa Place, Perth, PH1 5JX (“the Applicant”)**

**Linzi Shand, 78 Matthews Drive, Perth, PH1 2UR (“the Respondent”)**

**Tribunal Members:**

**Alastair Houston (Legal Member) and Angus Lamont (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession be made in favour of the Applicant.**

**1. Background**

- 1.1 This is an application under rule 66 of the Chamber Rules whereby the Applicant sought an order for recovery of possession of the property. The application was accompanied by, amongst other things, copies of the written tenancy agreement between the parties, the notice to quit and notice in terms of section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).
- 1.2 No written representations had been received from the Respondent in advance of the Case Management Discussion.

## 2. The Case Management Discussion

2.1 The Case Management Discussion took place on 24 February 2025 by teleconference. The Applicant was represented by Ms Oates of MacNabs solicitors. The Respondent appeared personally.

2.2 The Tribunal heard firstly from the Applicant's representative. The application was insisted upon. Valid notice to quit and notice in terms of section 33 of the 1988 Act had been served. The short assured tenancy had reached its end and no further contractual tenancy was in force. Notice of the proceedings had been given to the local authority as was required. It was reasonable to grant the order sought. The Respondent had sufficient notice of the proceedings but had refused to move. The Applicant wished to sell the property to fund her retirement. She had offered the Respondent first refusal on purchasing the property but she had declined. The Applicant had attempted to sell with a sitting tenant but had not received a satisfactory offer. Accordingly, she required vacant possession. Since service of the notice to quit, arrears of rent totalling £2625.00 had accrued.

2.3 The Respondent confirmed she had no issue with the order being granted. She had contacted the local authority for assistance but they had advised that an order required to be granted before she would be rehoused. She had spoken with the local authority last week and had been advised that suitable accommodation would be available. She was of the impression that her application for rehousing would be treated favourably but required the order to be granted before a homeless application could be made. She resided with her 14 year old daughter. She accepted that rent arrears had accrued but had had no contact with the Applicant since being advised of her intention to sell the property. She had had time off work since service of the notices due to health conditions suffered by her daughter, namely cyclical vomiting syndrome and, potentially, autism. She wanted the matter resolved to avoid further stress being caused to her and her daughter, worsening her conditions.

2.4 Following a short adjournment to consider matters, the Tribunal granted the order sought.

## 3. Reasons For Decision

3.1 This application relates to a short assured tenancy agreement. Recovery of possession of the property was sought in terms of section 33 of the 1988 Act, which states:-

**33 Recovery of possession on termination of a short assured tenancy.**  
*(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.*

In the present case, valid notice to quit had been served. Accordingly, the contractual tenancy had come to its end. Notice in terms of section 33 of the 1988 Act had been given.

3.2 The only live issue for the Tribunal to determine was whether it was reasonable to make the order. There was no factual dispute between the parties and the Tribunal believed no hearing was required. In considering reasonableness, the Tribunal considered the whole circumstances in which the application was made. The Tribunal placed particular weight on the lack of opposition to the application from the Respondent, her engagement with the local authority and their apparent willingness to rehouse her, the reasons of the Applicant in seeking possession and the rent arrears that had accrued to date.

3.3 The Tribunal noted the position of the Respondent's daughter and the Respondent's desire to avoid further stress being caused to her. The Tribunal was mindful of the local authority's obligations under the Housing (Scotland) Act 1987 and considered it appropriate that the order issued should not be enforced earlier than the end of March 2025.

## 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.**

# A Houston

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Legal Member/Chair

24 February 2025  
Date

