

**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 (Act)**

Chamber Ref: FTS/HPC/EV/24/4375

Re: Property at Flat 1/2, 1 Robertsons Gait, Paisley, PA2 6DL (“the Property”)

Parties:

**Mr Carl (Paul Anthony) Melvin, C/O Emmerson Homes, 36 High Street,
Johnstone, PA5 8AH (“the Applicant”)**

**Miss Angela Neeson, Flat 1/2, 1 Robertsons Gait, Paisley, PA2 6DL (“the
Respondent”)**

Tribunal Members:

Alan Strain (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application for eviction and recovery of
possession be granted but that execution of the order should be postponed to
31 July 2025.**

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal
for Scotland Housing and Property Chamber (Procedure) Regulations 2017
(**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 18 September 2024;
2. AT5 and SAT commencing 30 August 2013;
3. Notice to Quit dated 24 June 2024;
4. Section 33 Notice dated 24 June 2024;
5. Royal Mail track and trace receipts dated 26 June 2024;
6. Section 11 Notice and email serving on local authority dated 18 September 2024
along with read receipt dated 19 September 2024;

7. Sheriff Officer certificate of service of CMD Notification on 5 March 2025;
8. Respondent's Written Representations dated 21 March, 7 and 8 April 2025;
9. Applicant's Written Representations dated 7 and 8 April 2025.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 10 April 2025. The Applicants did not participate but was represented by their Letting Agent, Ms Kellie Deans. The Respondent participated and was represented by Ms Stella Cojocaruc of Renfrewshire CAB.

Preliminary Matters

1. Ish date of the SAT

Ms Cojocaruc had raised the issue of the validity of the termination of the SAT on the basis that she contended 28 June 2024 was not an ish date under the SAT. She submitted that the correct ish was either the last day of a month or the first day of the following month.

Ms Deans contended that the ish date under the SAT was the 28th date of a month as the original term had ended on 28 February 2014 and had continued month to month.

The Tribunal considered the respective submissions and determined that the SAT had been validly terminated at the ish date of 28 June 2024. The original term had ended on the 28 February 2014 and continued month to month thereafter. This meant that the SAT would continue to the 28th day of each month thereafter.

2. Section 11 Notice not received by the local authority

Ms Cojocaruc contended that the section 11 Notice had not been received by the local authority. She produced an email from a housing assistant (Clare Gregory) to that effect.

Ms Deans had produced the email of 18 September 2024 sending the section 11 Notice to the local authority, a delivery receipt of the same date and a read receipt dated 19 September 2024.

The Tribunal were satisfied that the Applicant had sent the section 11 Notice to the local authority on 18 September 2024.

As the statutory requirements for termination of the SAT had been complied with the Tribunal then moved on to consider the question of reasonableness.

Reasonableness

Applicant

Ms Deans informed the Tribunal that the Applicant had 2 Properties which had been rented. The other had been sold and his intention was to sell this one to realise the capital to help a family member purchase a property. Beyond that Ms Deans could not provide much in the way of additional information about the personal circumstances of the Applicant.

Ms Deans had lodged written representations with the Tribunal which included a statement from the Applicant and also correspondence showing that he had been trying to negotiate recovery of possession of the Property with the Respondent for over 3 years.

Respondent

Ms Cojocarui had lodged written representation on behalf of the Respondent along with correspondence from the local authority regarding the special needs of the Respondent's 16 year old son who had autism.

The Respondent's son needed access to his school and health services in the locality. He was being assessed for Nat 2 and 3s over the next couple of months. He attended a special school. Any eviction would have a detrimental impact upon him. Due to his needs he required accommodation that was suitable for the Applicant and himself.

The Respondent outlined the considerable effort she had put in to trying to obtain suitable alternative accommodation through the local authority and a number of housing associations. She had engaged the assistance of her MSP and the local authority social work department.

Ms Cojocarui submitted that if the Tribunal were minded to grant an order that execution should be postponed for 6 months under Rule 16A.

Ms Deans opposed this in the circumstances.

Decision and Reasons

The Tribunal considered the oral and documentary evidence from the Parties. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a SAT commencing 30 August 2013;
2. An AT5 had been served prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served on 26 June 2024;
4. Section 11 Notice had been served on the local authority on 18 September 2024;
5. The SAT had reached its end and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicant had given the Respondent notice that he required possession;
9. The Applicant required to recover possession of the Property to sell it and realise the capital for his family member to purchase a property;
10. The Respondent had lived in the Property with her son for nearly 12 years;

11. The Respondent's son is 16 years old, has autism and special needs. He attends a special needs school in the locality and has healthcare support locally. Any eviction would be detrimental to his health and wellbeing. He was also studying for Nat 2s and 3s over the next couple of months;
12. The Respondent wished a delay in the execution of the order to give her time to obtain suitable local authority housing or housing association accommodation.

The Tribunal considered all of the evidence and submissions.

The Tribunal were satisfied that Rule 66 had been complied with.

The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Respondent had been in regular contact with the local authority and various housing associations regarding provision of suitable alternative accommodation for her and her son. She needed time to be able to obtain this.

The Applicant needs to sell the Property to provide capital or a family member to purchase a property.

The Tribunal had to balance the competing interests of the Parties and reach a decision that was fair. The Tribunal considered that it was reasonable to grant the order sought and granted the application for eviction and recovery of possession but postponed execution of the order to 31 July 2025 under Rule 16A of the Tribunal Procedure Rules. This would allow the Respondent further time to source suitable alternate accommodation and for her son to complete his Nat 2s and 3s.

It would also give the Applicant certainty with regard to a date when he could market and sell the Property.

The Tribunal did not require to hear any further evidence.

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. Strain

10 April 2025

Legal Member/Chair

Date