

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 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/24/3916

Re: Property at 25 Katrine Crescent, Airdrie, ML6 0LB (“the Property”)

Parties:

Mrs Carolanne Reid, 19 Ewart Drive, Airdrie, ML6 9HE (“the Applicant”)

Ms Kirsty Smith, 25 Katrine Crescent, Airdrie, ML6 0LB (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant but that the Order is superseded until 27th June 2025.

Background

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The application lodged together with an email dated 23rd August 2024. The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. On 15th February 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 26th March 2025 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 8th March 2025.
3. On 19th February 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent personally. This was evidenced by Certificate of Intimation dated 19th February 2025.

Case Management Discussion

4. A Case Management Discussion ("CMD") was held on 26th March 2025 at 2pm by teleconferencing. The Applicant was present and was represented by Mr Andrew Devlin, Trainee Solicitor, Clarity Simplicity Ltd. The Respondent was present and represented herself. Miss Tina Brannan, the Respondent's aunt, was present for moral support for the Respondent. At the Respondent's request, Miss Brannan assisted the Tribunal with some of her evidence.
5. Mr Devlin said that the Applicant now wished to sell this property. She has had to reduce her working hours due to ill health. She has one dependent daughter living with her. Her other daughter is studying abroad but has limitations upon her visa which means that the Applicant is still required to support her financially.
6. The Applicant said that she had 5 properties with her late husband. Two were sold before his death five years ago. Two more have been sold leaving only this property. The last property was sold for the same amount that it was bought for which meant that there was no profit. This property is not yielding a profit. Half of the money goes to the interest only mortgage and the remaining amount pays the monthly legal obligations which she is required to pay such as landlord insurance.
7. The Applicant said that the Respondent is an excellent tenant and there are no tenancy issues. She is not looking to sell due to any other reasons than other than those connected with her own finances.
8. The Respondent said that she lives in the Property with her three children. Her daughter who is aged 10 months old and two sons aged 2 and 9 years old. Her eldest son is in Primary 5 at school. The Respondent has depression and anxiety. Ms Brannan assisted her with her evidence at points due to the Respondent's anxiety. This was at the request of the Respondent. There are no other health issues in the household.
9. The Respondent has registered with her local authority to be rehoused as homeless. She has not been given any further information. Miss Brannan and the Respondent think that the offer of alternative accommodation may be dependant upon the decision of this Tribunal but they were not completely sure. She is very concerned about where she will go with her children if she is evicted. She would like a few more weeks to allow her to be allocated a property by her local authority.
10. The Respondent wishes to remain local to where she lives just now. She has to help her father care for her mother who lives a street away. Her son is in Primary 5 and would like him to remain at his current school.
11. The Tribunal considered that given all the information before it that it was reasonable to grant an order for eviction. However, it considered that the reasonable, fair and appropriate decision was to supersede the Order to 27th

June 2025 to allow the Respondent's son to finish his academic year at school. It is noted that this does not mean that the Respondent must remain in the Property until that date if she is given another property by the local authority. She can give her notice and leave before 27th June 2025. However, if she fails to find alternative accommodation the Applicant can proceed to following the legal process for an eviction after that period and once the 14 day notice has been serviced after 27th June 2025 at 12pm. The Respondent said that she understood this point.

Findings in Fact

12. The parties entered into a Short Assured Tenancy on 1st May 2017 to 30th November 2017 it was continued by tacit relocation thereafter. An AT5 was signed by both parties on 13th April 2017. The rent payments of £500 are due on the first day of each month.
13. The Applicant no longer wishes to be a landlord. She has increased financial pressure from being a landlord.
14. There are no issues with the Respondent as a tenant.
15. The Respondent is not opposed to an order being granted.
16. The Respondent lives with her three children who are aged 10 months old, 2 years old and 9 years old. Her 9 year old son is in Primary 5 in school. The school year ends at the end of June 2025
17. The Respondent has registered with her local authority to be rehoused in light of this eviction case.

Reasons for Decision

18. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served, the Respondent was not opposing the granting of an order and the Applicant required to sell the Property to alleviate financial pressure from being a landlord the Tribunal granted an order for eviction.
19. The Tribunal found it reasonable fair and appropriate to supersede the extract until the end of the school year to allow the Respondent's 9 year old child to complete his school year.

Decision

20. The Applicant is entitled to an Order for recovery of possession with the Order superseded until 27th June 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.



26th March 2025

Legal Member/Chair

Date