



**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/25/0094

**Re: Property at Bridgend, Fyvie, Turriff, Aberdeenshire, AB53 8LL (“the
Property”)**

Parties:

Mr John Forbes-Leith, Dunachton Lodge, Kingussie, PH21 1LY (“the Applicant”)

**Mr Ian Chrystie, Mrs Beverley Chrystie, Bridgend, Fyvie, Turriff,
Aberdeenshire, AB53 8LL (“the Respondents”)**

Tribunal Members:

Alison Kelly (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for eviction should be granted.**

1. On 13th January 2025 the Applicant lodged an Application with the Tribunal under Rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondents from the property.
2. Lodged with the application were: -
 - a. Short Assured Tenancy Agreement dated 25th April 2010 and initially running from 1st May 2010 to 30th April 2011 and monthly thereafter, and with monthly rent of £;
 - b. AT5 Notice dated 20th April 2010;
 - c. Notice to Quit dated 15th October 2024 for 31st December 2024;
 - d. Section 33 Notice dated 15th October 2024 for 31st December 2024;
 - e. Proof of service of c and d;

- f. Section 11 Notice;
 - g. Rent Statement showing arrears of rent of £8500 as at January 2025.
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- 3. The Tribunal's administration downloaded a copy of the title deeds to the property which show that the Applicant is the owner.
 - 4. The Application was served on the Respondents by Sheriff Officers on 11th April 2025.
 - 5. On 6th May 2025 the Applicant's solicitor sent an email to the Tribunal seeking to amend the figure for arrears to £10,600, and lodged an up to date rent statement.

Case Management Discussion

- 6. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Mr Doran of Raeburn, Christie, Clark and Wallace, Solicitors. There was no attendance by the Respondents nor any representative on their behalf.
- 7. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and also that it was reasonable for the Tribunal to grant the order.
- 8. Mr Doran sought an order for eviction in terms of sections 19 and 33 of the Housing (Scotland) Act 1988. He said that the correct procedures had been followed to bring the tenancy to an end and that tacit relocation was not operating.
- 9. In relation to reasonableness he said that the Respondents had no children who lived in the property, they had no known disabilities and the property had not been adapted in any way. He said that the Respondents had significant rent arrears, the sum currently stands at £10,600. He said that this equates to around 20 months of missed payments. He said that the Respondents have been in arrears fairly constantly since 2020. He also said it is the Applicant's intention to re-let the property.

Findings in Fact

- i. The parties entered into a Short Assured Tenancy Agreement in respect of the property;
- ii. The tenancy commenced on 1st May 2010, with the initial term being from 1st May 2010 to 30th April 2011, and monthly thereafter;
- iii. Notice To Quit and Section 33 Notice were served timeously and correctly;
- iv. The Short Assured Tenancy has reached its end;
- v. Tacit relocation is not operating;
- vi. The Applicant is the owner of the property ;

- vii. The Application was served on the Respondents by Sheriff Officer on 11th April 2025;
- viii. The Respondents have no children living in the property with them;
- ix. The property has not been adapted to aid disability and the Respondents are not known to have any disabilities;
- x. There are rent arrears of £10,600.

Reasons For Decision

10. Section 33 of the Housing (Scotland) Act 1988 is as follows:

(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.

(2) The period of notice to be given under subsection (1)(d) above shall be—

(i) 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.

(3) A notice under paragraph (d) of subsection (1) above may be served before, at or after the termination of the tenancy to which it relates.

(4) Where the First-tier Tribunal makes an order for possession of a house by virtue of subsection (1) above, any statutory assured tenancy which has arisen as at that finish shall end (without further notice) on the day on which the order takes effect.

(5) For the avoidance of doubt, sections 18 and 19 do not apply for the purpose of a landlord seeking to recover possession of the house under this section.

- 9. The Tribunal is satisfied that the Short Assured Tenancy has been brought to an end and that tacit relocation is not operating.

10. The Tribunal is also satisfied that it is reasonable to grant the order. The rent arrears are substantial, amounting to around 20 months of missed payments. The Tribunal is satisfied that this in and of itself makes it reasonable to grant the Order. In addition the Respondents have not responded to the application, and did not appear at the CMD. There are no factors to be balanced against the rent arrears when determining reasonableness.

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.

Alison Kelly

Legal Member/Chair

19 May 2025

Date