



**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/24/4609

Re: Property at 39 Barlandfauld Street, Kilsyth, G65 0BT (“the Property”)

Parties:

**Mr John William Cantwell, 42 Eaglesham Path, Glenboig, Coatbridge, ML5 2SL
 (“the Applicant”)**

**Ms Danielle Lundie, 39 Barlandfauld Street, Kilsyth, G65 0BT (“the
Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member) and David Fotheringham (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 1st October 2024 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 15th May 2015 and initially running from 15th May 2015 to 15th November 2015 and monthly thereafter, and with monthly rent of £420;
 - b. AT5 Notice dated 15th May 2015;
 - c. Notice to Quit dated 1st July 2024 for 15th September 2024;
 - d. Section 33 Notice dated 1st July 2024 for 15th September 2024;
 - e. Proof of service of c and d;
 - f. Section 11 Notice;

- g. Home Report dated 4th October 2023;
 - h. Email dated 17th May 2024 from North Lanarkshire Council to the Applicant rejecting his application for them to purchase the property.
3. The Application was served on the Respondent by Sheriff Officers on 27th February 2025.

Case Management Discussion

- 4. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Miss Donnelly of TC Young, Solicitors. There was no attendance by the Respondent nor any representative on her behalf.
- 5. 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.
- 6. Miss Donnelly sought an order for eviction in terms of sections 19 and 33 of the Housing (Scotland) Act 1988. She said that the Applicant was selling off his portfolio of properties and this was the last one. She said that there is a mortgage on the property which is on an interest only basis and comes to the end of its term in September 2025. The Applicant is 73 and is not able to refinance it. She said that the Applicant indicated to the Respondent over two years ago that he wished to sell, and after that he made several applications to North Lanarkshire Council for them to purchase the property under their buy back scheme, which would have allowed the Respondent to stay in the property. However, his applications were rejected.
- 7. Miss Donnelly said that the Respondent is in her early thirties and lives in the property with two children, aged 13 and 8. She has been a good tenant and there are no rent arrears. She has applied for local authority housing but has been told that she will need an eviction order before they can accommodate her.

Findings in Fact

- i. The parties entered into a Short Assured Tenancy Agreement in respect of the property;
- ii. The tenancy commenced on 15th May 2015, with the initial term being from 15th May 2015 to 15th November 2015, 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 Application was served on the Respondent by Sheriff Officer on 27th February 2025;
- vii. The Applicant is selling off all his rental properties;

- viii. The Applicant has a mortgage on the let property, the term of which is shortly due to expire;
- ix. The Applicant cannot refinance the property;
- x. The Respondent is in her early 30s and lives in the property with two children;
- xi. There are no rent arrears.

Reasons For Decision

8. 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. The Tribunal is also satisfied that it is reasonable to grant the order. The Applicant has the right to sell the

property, and he has taken steps to try to mitigate the situation for the Respondent in that he has made several applications to the local authority to buy the property. Unfortunately these applications have been rejected. The Respondent has had plenty of notice that the Applicant wishes to sell and she has not opposed the application. The Tribunal considers that it would be just, given that the Respondent has two children living with her, to suspend extract of the Eviction Order for a period of two weeks to give the Respondent time to notify the local authority and to ask them to treat her application as priority. The Order will not take effect until 11th 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.

Alison Kelly

Legal Member/Chair

08/05/25

Date