



**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/24/2680

Re: Property at 6 Castlebrae Place, Edinburgh, EH16 4DR (“the Property”)

Parties:

**Ms Clare Palmer, Mr Stuart Donoghue, 4/2F2 Viewforth, Edinburgh, EH10 4JF;
22/2 Craighouse Terrace, Edinburgh, EH10 5LJ (“the Applicants”)**

**Ms Emma Young, Mr Darren Young, 6 Castlebrae Place, Edinburgh, EH16 4DR
 (“the Respondents”)**

Tribunal Members:

Ms H Forbes (Legal Member) and Mr T Cain (Ordinary Member)

Decision (in absence of the Respondents)

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

Background

1. This is a Rule 66 application received in the period between 12th and 13th June 2024. The Applicants are seeking an order for possession of the Property. The Applicants’ representative lodged a copy of a short assured tenancy with an initial period from 30th June to 30th December 2015 and monthly thereafter. The Applicants’ representative also lodged copy Notice to Quit and section 33 notice together with evidence of posting and delivery, copy section 11 notice with evidence of service, Form AT5, and a statement of reasonableness.
2. Service of the application and notification of a Case Management Discussion (“CMD”) was made upon the Respondent, Emma Young, by Sheriff Officers on 10th October 2024.
3. A CMD took place by telephone conference on 14th November 2024. The CMD was continued to a further CMD to allow the application to be amended and service to be effected upon the Respondent, Darren Young.

4. By email dated 11th March 2025, the Applicant, Clare Palmer, submitted representations and financial information.
5. Notification of a CMD was made upon the Respondent, Emma Young, by letter dated 29th March 2025.
6. Service of the application and notification of a CMD was made upon the Respondent, Darren Young, by Sheriff Officers on 1st April 2025.

The Case Management Discussion

7. A Case Management Discussion ("CMD") took place by telephone conference on 24th April 2025. The Applicants were not in attendance and were represented by Mr Livingstone, Landlord Specialist Services Scotland. The Respondents were not in attendance.
8. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondents.
9. Mr Livingstone said there had been no recent communication from the Respondents either to his agency or to the Applicants. The Applicants' position was that they were seeking an order for possession. The Applicants intend to sell the Property. Mr Livingstone said the Respondents had advised at the time of service of the relevant notices that they required an order for possession in order to access social housing.
10. Mr Livingstone said his agency does not manage the Property directly. He understood the Respondent, Mr Young, was in employment. There are three children in the Property. There are no overcrowding, or relevant social issues. Mr Livingstone said there had been issues with rent arrears but he understood the issues had been dealt with by the Respondents in a timely manner. Responding to questions from the Tribunal as to why it was stated in the statement of reasonableness that there were arrears of £30,000, Mr Livingstone said he had not been instructed as to the amount of arrears. Mr Livingstone said the Property is still occupied. Mr Livingstone had not been made aware of whether the Applicants own any other property to let.
11. The Tribunal adjourned to consider matters.

Findings in Fact and Law

12.
 - (i) The Applicants are the heritable proprietors of the Property.
 - (ii) Parties entered into a short assured tenancy agreement commencing on 30th June to 30th December 2015.
 - (iii) Notice to Quit and Section 33 Notice were served on the Respondents.

- (iv) The short assured tenancy has reached its ish date.
- (v) The contractual tenancy terminated on 30th May 2024.
- (vi) Tacit relocation is not in operation.
- (vii) The Applicants have given the Respondents notice that they require possession of the Property.
- (viii) It is reasonable to grant the order for possession.

Reasons for Decision

13. Section 33 of the Act provides that the Tribunal may make an order for possession if satisfied that the short assured tenancy has reached its finish, tacit relocation is not operating, the landlord has given notice to the tenant that they require possession, and it is reasonable to make the order.
14. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicants have given the Respondents notice that they require possession of the Property.
15. In considering reasonableness, the Tribunal took into account the circumstances of both parties.
16. The Tribunal took into account the representations from the Applicant, Ms Palmer, that they are suffering financial hardship and that no rent was paid from September 2024 to March 2025. The Tribunal was concerned that no rent statement had been lodged, and that the Applicants had not provided full instructions to their representative in regard to the level of rent arrears.
17. The Tribunal took into account that the Respondents have three children, and that granting the order may result in the family becoming homeless. However, the Respondents chose not to attend the CMD or make any written representations to assist the Tribunal in considering the effect of granting the order upon the Respondents and their children. This was the second CMD, and, although Darren Young had not been notified of the first CMD, Emma Young had received notification, yet made no appearance. The Tribunal took into account the representations made that the Respondents require an order for possession to assist them in obtaining social housing, however, this was hearsay evidence to which the Tribunal gave limited weight.
18. The Tribunal gave careful consideration to all the evidence before it. Notwithstanding the discrepancy regarding the level of rent arrears, the Tribunal was satisfied the Applicants have suffered as a result of the Respondents' failure to pay the rent. On balance, the Tribunal considered a *prima facie* case for reasonableness had been out made by the Applicants. It was incumbent upon the Respondents to attend or make representations to the Tribunal to indicate why an order should not be granted, and the

Respondents failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

19. An order for possession of the Property is granted under section 33 of the Housing (Scotland) Act 1988. The order is not to be executed prior to 12 noon on 28th May 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.

H. Forbes

Legal Member/Chair

24th April 2025
Date