

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 (“1988 Act”)

Chamber Ref: FTS/HPC/EV/24/4782

Re: Flat 1/1, 51 Hickman Street, Glasgow, G42 7HR
 (“the Property”)

Parties:

Mr Kaiser Khan, 7 Fernleigh Road, Glasgow, G43 2UD
 (“the Applicant”)

Mr Khaled Omar, Flat 1/1, 51 Hickman Street, Glasgow, G42 7HR
 (“the Respondent”)

Tribunal Members:

Pamela Woodman (Legal Member) and Frances Wood (Ordinary Member)

Present:

The case management discussion took place at 10am on Thursday 12 June 2025 by telephone conference call (“**the CMD**”). The Applicant was not present at the CMD but was represented by Atif Ahmed of The Property Store. The Respondent was present and was supported by his son, Abdalsalam Omar. The clerk to the Tribunal was Susan Reidpath.

Decision

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

BACKGROUND

1. An application was made to the Tribunal under section 33 of the 1988 Act. The application was made in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“**HPC Rules**”) which are set out in the schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. More specifically, the application was made in terms of rule 66 (*Application for order for possession upon termination of a short assured tenancy*) of the HPC Rules.

2. The order sought was an order for possession of the Property.
3. A notice of acceptance of the application was issued by the Tribunal dated 3 January 2025 under rule 9 of the HPC Rules ("**Notice of Acceptance**"), which confirmed that the application paperwork had been received by the Tribunal between 16 October and 3 November 2024.
4. The Respondent provided written submissions in advance of the CMD by e-mail on 11 April 2025.
5. This decision arises out of the CMD.

PROCEEDINGS

6. The Legal Member explained that the application had been brought in terms of rule 66 and so the Applicant was seeking an order for possession in terms of section 33 of the 1988 Act.
7. The Respondent confirmed that he was agreeable to an order for possession being granted because it would likely help him to find alternative accommodation and a new home for his family. He explained the numerous efforts he had made in advance of the CMD through the local authority and housing associations to seek alternative accommodation but that they had indicated that they would not be able to help him until he had a "court order", which the Tribunal understood to mean an order for possession from the Tribunal.
8. However, the Respondent was concerned about the timing of enforcement of an order for possession (and so when he and his family would be required to leave the Property) because his children were doing exams and he needed to find a home for them to live in first. He indicated that he had lived in the same area since he had arrived in the UK in 2011 and wanted to stay in the same area because they were part of the community and were settled there, including regarding schools, GP, etc.
9. It was clear from the CMD that there was an excellent working relationship between the Applicant's representative and the Respondent, and that the Applicant's representative was supportive of the Respondent.

FINDINGS IN FACT

10. The form AT5 dated 1 April 2017 appeared on the face of it to be valid and to have been served before the creation of the tenancy agreement. The term of the tenancy was for an initial term of six months (from 1 April 2017 to 30 September 2017). Therefore, the Tribunal was satisfied, on the balance of probabilities, that the tenancy was a short assured tenancy as defined in section 32 of the 1988 Act.
11. The notice to quit dated 18 April 2024 brought the tenancy to an end on a possible date (namely 30 June 2024), allowed for an adequate period of notice and contained the information prescribed in The Assured Tenancies (Notices to Quit Prescribed Information) (Scotland) Regulations 1988. Accordingly, it met the requirements for a valid notice to quit.

12. The notice under section 33(1)(d) dated 18 April 2024 met the requirements of section 33(1)(d) of the 1988 Act and allowed for an adequate period of notice and so met the requirements for a valid section 33 notice.
13. A notice under section 11 of the Homelessness etc (Scotland) Act 2003 had been sent to the local authority.
14. On the balance of probabilities, it was reasonable to grant an order for possession for the reasons set out below.

REASONS FOR DECISION

15. Section 33(1) of the 1988 Act provides that "...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."
16. The Tribunal was satisfied, on the balance of probabilities, that the tenancy was a short assured tenancy, that it had been brought to an end on its ish date, that tacit relocation was not operating (as a result of the service, and expiry of the period of notice under, the notice to quit) and that the Respondent had been given notice that the Applicant required possession of the house (as a result of the service, and expiry of the period of notice under, the section 33 notice). Accordingly, the only remaining factor to consider was whether or not it was reasonable to make an order for possession.
17. The Tribunal was satisfied, on the balance of probabilities, that it was reasonable to grant an order for possession because:
 - a. The Respondent was agreeable to an order for possession being granted.
 - b. The Property had only two bedrooms and there were seven people living there, four over the age of 18 and three under the age of 18. The Respondent had submitted applications for alternative accommodation and was seeking four or five bedrooms.
 - c. Based on the Tribunal's own knowledge and experience, an order for possession would likely be of assistance to the Respondent in seeking alternative accommodation through the local authority or a housing association.

- d. The requisite notices etc had been served on the Respondent in April 2024, which was more than one year prior to the date of the CMD.
- e. The Applicant wished to sell the Property in order to start preparations for his retirement.

DECISION

18. The Tribunal decided that an order be granted against the Respondent for possession of the Property under section 33 of the 1988 Act, which order was not to be executed prior to 12 noon on Monday 14 July 2025.

19. The order referred to in the preceding paragraph was intimated orally to the Respondent and the representative of the Applicant during the CMD.

Right of Appeal

In terms of Section 46 of the Tribunals (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.

P S Woodman

12 June 2025

Chair

Date