

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/24/4705

Re: Property at 17 Mungo Place, Uddingston, G71 5RF (“the Property”)

Parties:

**Mr David Dooher, Natalie Halliday Dooher, 9 Third Street, Uddingston, G71 6DH
 (“the Applicant”)**

Julie McIntyre, 17 Mungo Place, Uddingston, G71 5RF (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for possession of the property but that enforcement of the order should be suspended for a period of three months.

Background

1. By application dated 9 October 2024 the Applicant’s representatives, Premier Properties, Uddingston, applied to the Tribunal for an order for possession of the property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant’s representatives submitted a copy of a lease with Form AT5, a Notice to Quit and Section 33 Notice with proof of service and a Section 11 Notice with proof of intimation in support of the application.
2. By Notice of Acceptance dated 11 December 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was arranged.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 18 March 2025.

4. By email dated 3 April 2025 the Respondent submitted written representations to the Tribunal.
5. By email dated 27 May 2025 the Applicant's representatives submitted written representations on behalf of the Applicant to the Tribunal.

The Case Management Discussion

6. A CMD was held by teleconference on 28 May 2025. The Applicant did not attend but was represented by Mr Steven Kiernan from the Applicant's representatives. The Respondent attended in person.
7. After explaining the purpose of the CMD the legal member ascertained from the Respondent that she did not take issue with the service of the Notice to Quit and Section 33 Notice and that she also accepted that North Lanarkshire Council had received proper intimation of the proceedings by way of the Section 11 Notice.
8. The Respondent went on to say that having taken advice from Shelter she accepted that the Applicant was entitled to possession of the property but that she needed time for the local authority to find accommodation for her and her family as she was unable to afford private housing. The Respondent referred the Tribunal to her written representations of 3 April 2025 and explained that she was a single parent of two daughters aged 11 and 16. The Respondent said that she was also the carer for her disabled mother who lived locally and as she did not drive, she required to live close to her mother. The Respondent explained that she had been told by the local authority that although she was on the waiting list for housing, they would not assist in finding accommodation for her and her family unless and until an order for possession was granted. The Respondent expressed concern that there may be no suitable accommodation available in her local area and she and her family may be placed in homeless accommodation and this could have an adverse effect on her children and particularly her older daughter who was in the process of being assessed by mental health for ADHD and autism. The Respondent also advised the Tribunal that she was under considerable stress following a health issue and had recently been referred for a CT scan and was awaiting the results.
9. For the Applicant, Mr Kiernan referred the Tribunal to the Applicant's submissions contained in the representations dated 27 May 2025. Mr Kiernan confirmed that the Applicant, Mr Dooher, was trying to sell all of his rental properties following a decision to give up full time employment and become self-employed. Mr Kiernan said that the rising costs of running the let properties together with increased mortgage costs had made it more difficult for the Applicant to sustain the let properties following the reduction in his income on becoming self-employed. Mr Kiernan explained that he had contacted some clients to see if they would be interested in purchasing the Applicant's remaining let properties but had not been able to find a buyer. Mr Kiernan also said that the Applicant had contacted some auction companies without success. Mr

Kiernan said that in the circumstances given that the Notice to Quit had been served in July last year the Applicant was keen to make progress.

10. In response to a query from the Tribunal Mr Kiernan confirmed that he thought the Applicant would agree to an order if granted being postponed for a period of three months.
11. In response to a similar query from the Tribunal the Respondent said that she hoped that the local authority would be able to find her and her family a property in her local area within that time period particularly as she needed to be local as her mother's carer and that she would seek assistance in this regard from the Social Work Department. The Respondent also confirmed that her older daughter did sometimes stay at her grandparents' home in order to study and to have a break from her younger sister but that she was resident with her at the property.

Findings in fact

12. The parties entered into a Short Assured Tenancy agreement that endured for a period of six months from 1 March 2016 and from month to month thereafter at a rent of £575.00 per calendar month.
13. The Respondent was served with a Notice to Quit and Section 33 Notice both dated 3 July 2024 by recorded delivery post on 4 July 2024.
14. Intimation of the proceedings was sent to North Lanarkshire Council by email on 9 October 2024.
15. The Applicant has become self-employed and has reduced his income.
16. The Applicant intends to sell all of his rental properties to raise capital to alleviate his financial situation.
17. The Applicant has not increased the rent for the property since the commencement of the tenancy.
18. The Applicant has so far been unable to sell the property with a sitting tenant but has not actively marketed the property for sale.
19. The Respondent has not opposed the application being granted but requires time to find alternative accommodation.
20. The Respondent would be unable to afford any substantial increase in rent.
21. The Respondent cannot afford other private rental accommodation in the area.
22. The Respondent has applied for local authority housing.

23. The Respondent has been advised that the local authority will not assist her and her family with housing unless and until an order is made for possession of the property.
24. The Respondent is a single parent with her two daughters aged 11 and 16 living with her in the property.
25. The Respondent's older daughter is in the process of being assessed for ADHD and autism.
26. The Respondent's older daughter spends some time at her grandmother's home in order to study and to have a break from her younger sister but still resides with the Respondent.

Reasons for Decision

27. The Tribunal was satisfied from the documents submitted and the oral submissions of both parties that the parties entered into a Short Assured tenancy that commenced on 1 March 2016. The Tribunal was also satisfied that a valid Notice to Quit and Section 33 Notice in terms of the 1988 Act had been served on the Respondent and that proper intimation of the proceedings had been given to North Lanarkshire Council by way of a Section 11 Notice.
28. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for possession of the property and the removal of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that neither party took any significant issue with the other party's position as stated by them. The Tribunal therefore had to balance the needs of the Applicant with the needs of the Respondent in arriving at a decision. On the one hand there was the Applicant, Mr Doohar, who was suffering financially having given up full time employment and becoming self-employed and was finding it financially difficult to continue with his rental property business due to increased mortgage and other costs. The Tribunal was satisfied that the sale of the property would release equity that would undoubtedly alleviate the Applicant's financial problems. On the other hand, the Tribunal also had to take account of the needs of the Respondent who had to care for her 11- and 16-year-old daughters who were attending local schools. In addition, both the Respondent and her older daughter had their own health issues and the Respondent who does not drive is a carer for her elderly mother who lives locally. The Tribunal also took into account the fact that the Respondent had been told that she would only be given priority for housing if an order for possession was granted.
29. After carefully considering the circumstances of both parties the Tribunal was persuaded that the needs of the Applicant in this application were such that although there would undoubtedly be an adverse impact on the Respondent and her daughters it was reasonable to grant the order sought but that enforcement of the order should be suspended for a period of three months

until 28 August 2025 and the Tribunal would hope that this would give the Respondent sufficient time for her to receive priority for rehousing by the local authority given that she has her daughters living with her and needs to live locally in order to care for her mother and for the continuation of the children's education.

Decision

30. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for possession of the property and the removal of the Respondent from the property but that enforcement of the order should be suspended until 28 August 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.

Graham Harding

Graham Harding
Legal Member/Chair

28 May 2025
Date