

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 Housing (Scotland) Act 1988 (“the 1988 Act”)**

**Chamber Ref: FTS/HPC/EV/24/4942**

**Property at 131 Wedderburn Street, Dunfermline, KY11 4SA (“the Property”)**

**Parties:**

**Mrs Frances Cooper, 26 Glenwood Avenue, Westcliff-On-Sea, SS0 9DJ (“the Applicant”)**

**Mr Roman Grudzinski, 131 Wedderburn Street, Dunfermline, KY11 4SA (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

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

**Background**

1. The Applicant seeks an order for possession in terms of Section 33 of the 1988 Act. A tenancy agreement, AT5 Notice, Notice to Quit, Section 33 Notice, and Section 11 Notice were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 24 June 2025 at 10am and that they were required to participate. Prior to the CMD, the Respondent contacted the Tribunal to advise that he required an interpreter for the CMD.
3. The CMD took place on 24 June 2025. The Applicant and Respondent participated. Ms Fasula, a Polish interpreter, also participated.

## **The Case Management Discussion**

4. Mr Grudzinski told the Tribunal that the application is not opposed. He has not managed to find alternative accommodation because he is on a short term contract but has made a homeless application to the Local Authority.
5. Mrs Cooper told the Tribunal that she has decided to sell the property as well as her other rental property. It is no longer viable for her to continue in the rental market, with all the changes in the legislation. She is 77 years of age, has Parkinson's disease and other health issues and has decided to sell.
6. In response to questions from the Tribunal, Mr Grudzinski said that he lives at the property with his wife and 12 year old daughter who is at secondary school. He had a heart attack six years ago but has fully recovered and there are no other health or other issues affecting the household. He previously made an application for housing to the Local Authority. When they received the eviction notice, they made a homeless application. The Council have not given them any timescales for an offer of accommodation, but he does not oppose the application.
7. In relation to the question of whether the Tribunal should order a delay in execution of the order, Mr Grudzinski said that he was not seeking any additional time.

## **Findings in Fact**

8. The Applicant is the owner and landlord of the property.
9. The Respondent is the tenant of the property in terms of a short assured tenancy agreement which started in 2015.
10. The Applicant served a Notice to Quit and Notice in terms of Section 33 of the 1988 Act on the Respondent on 7 August 2024.
11. The Applicant wants to recover possession of the property in order to sell it. She intends to sell her other rental property as well.
12. The Respondent does not oppose the application and has made an application to be re-housed by the Local Authority.

## **Reasons for Decision**

13. The application was submitted with a short assured tenancy agreement and AT5 Notice. The initial term of the tenancy was 26 January 2015 to 26 July 2015

with a provision that it would continue on a month to month basis after the initial term.

14. Section 32 of the 1988 Act states “(1) A short assured tenancy is an assured tenancy - (a) which is for a term of not less than 6 months; and (b) in respect of which a notice is served as mentioned in subsection (2) below. (2) The notice referred to in subsection (1)(b) above is one which – (a) is in such form as may be prescribed; (b) is served before the creation of the short assured tenancy; (c) is served by the person who is to be the landlord under the assured tenancy (or, where there are to be joint landlords under the tenancy, is served by a person who is to be one of them) on the person who is to be the tenant under the tenancy; and (d) states that the assured tenancy to which it relates is to be a short assured tenancy.”
15. The Tribunal is satisfied that the tenancy agreement between the parties was for an initial term of six months and therefore meets the requirements of Section 32(1) of the 1988 Act. The Tribunal is also satisfied that an AT5 Notice was given to the Respondent prior to the creation of the tenancy. In the circumstances, the Tribunal determines that the tenancy is a short assured tenancy in terms of section 32 of the 1988 Act.
16. From the documents submitted with the application, and information provided at the CMD, the Tribunal is satisfied that the Applicant served a Notice to Quit and Section 33 Notice on the Respondents on 7 August 2024. The Notice to Quit called upon the Respondents to vacate the property on 26 October 2024, an ish date. The Notice contains the information prescribed by the Assured Tenancies (Notices to Quit Prescribed Information) (Scotland) Regulations 1988 and complies with the terms of Section 112 of the Rent (Scotland) Act 1984. The Tribunal is satisfied that the Notice to Quit is valid and that the tenancy contract has been terminated. The Section 33 Notice was also served on 7 August 2024 and gave the Respondent 2 months notice that the Landlord wished to recover possession of the property. A Section 11 Notice was submitted with the application, with evidence that it was sent to the Local Authority. The Applicant has therefore complied with Section 19A of the 1988 Act.
17. Section 33 of the 1988 Act, (as amended by the Coronavirus (Recovery and Reform) (Scotland) Act 2022) states “(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; (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” Subsection 2 states “The period of notice to be given under subsection (1)(d) above shall be – (1) 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”. The Tribunal is satisfied that the tenancy has reached its finish and, as the Applicant has served a valid Notice to Quit, that

tacit relocation is not operating. A valid notice in terms of section 33(d) has also been served on the Respondent, giving at least two months' notice that the Applicant required possession of the property.

18. The Tribunal proceeded to consider whether it would be reasonable to grant the order for possession, in terms of Section 33(e) of the 1988 Act.

19. The Tribunal had regard to the following: -

(a) The Respondent does not oppose the application.

(b) The Applicant intends to sell the property. She has health issues and does not feel able to continue as a landlord.

(c) The Respondent has been in contact with the Local Authority and hopes to be offered alternative accommodation.

20. For the reasons outlined, the Tribunal is satisfied that it would be reasonable to grant the order for eviction.

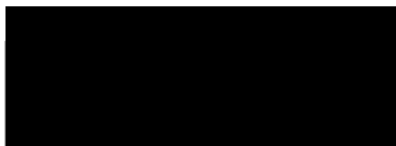
21. The Tribunal is also satisfied that a delay in execution should not be ordered. The Respondent confirmed that he did not seek additional time.

## **Decision**

22. The Tribunal determines that an order for possession of the property should be granted against the Respondent.

## **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.**



**Josephine Bonnar, Legal Member**

**24 June 2025**