



**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/24/4869

Re: Property at 164 Rumblingwell, Dunfermline, KY2 6SL (“the Property”)

Parties:

Mr Colin Miller, 37 Academy Place, Bathgate, EH48 1AS (“the Applicant”)

Ms Katie Hagart, 164 Rumblingwell, Dunfermline, KY2 6SL (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”) have been met in this case and it would be reasonable to make an eviction order.

The Tribunal therefore made an eviction order under section 33 of the 1988 Act.

Background

- 1** This is an application under section 33 of the 1988 Act and Rule 66 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant sought an eviction order on the basis that the short assured tenancy between the parties had been terminated.
- 2** The application was referred to a case management discussion (“CMD”) to take place by teleconference on 14 July 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 8 April 2025.
- 3** Both parties were invited to make written representations to the Tribunal regarding the application. No written representations were received from either party in advance of the CMD.

The CMD

- 4 The CMD took place on 14 July 2025 at 2pm by teleconference. Mr Jeffrey Livingstone of Landlord Agents Ltd represented the Applicant. The Respondent also joined the call.
- 5 The Tribunal had the following documents before it:-
 - (i) Form E application form dated 21 November 2024;
 - (ii) Title sheet confirming the Applicant's ownership of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
 - (iv) Short assured tenancy agreement between the parties and Form AT5;
 - (v) Section 11 notice to Fife Council and proof of delivery by email;
 - (vi) Notice to quit and notice under section 33(1)(d) of the 1988 Act together with proof of delivery; and
 - (vii) Written mandate by the Applicant authorising Landlords Agents Ltd to act as his representative in the Tribunal proceedings.
- 6 The Tribunal heard submissions from the parties on the application. The following is a summary of the key elements of the submissions and does not constitute a verbatim account of the proceedings.
- 7 Mr Livingstone confirmed that the Applicant sought an eviction order in order to carry out renovations and sell the property. This was the Applicant's only rental property. He wanted to remove himself from the rental market. Mr Livingstone was unaware of any historic issues with the tenancy, which has been ongoing since 2016. However, communication between the parties had broken down in recent months.
- 8 The Respondent agreed that the Applicant should get the property back. She explained that she had panicked when she received the notices last year. Her dad's house had burned down in December 2023 and she had nowhere to go at that time. The Respondent confirmed that she had spoken with the local authority after receiving the notices. The local authority had told her that she would have to go into temporary accommodation and would not be able to take her dog. However, her dad had recently moved back into his home and the Respondent intended to live with him. The Respondent was just looking for a few weeks to gather her things and move out. The Respondent confirmed that she resided in the property with her dog.
- 9 The Tribunal adjourned the CMD to deliberate, at which point the parties left the call, before resuming the discussion and confirming the outcome.

Findings in fact

- 10 The Applicant is the registered owner of the property. The Applicant is a registered landlord.

- 11 The Applicant is the landlord, and the Respondent is the tenant, of the property in terms of a short assured tenancy agreement, which commenced on 27 October 2016.
- 12 On 6 October 2016 the Applicant personally delivered a notice to quit to the Respondent terminating the contractual tenancy between the parties as at 28 April 2017.
- 13 On 25 July 2024 the Applicant served a notice under section 33(1)(d) of the 1988 Act upon the Respondent by sheriff officers. The notice stated that the landlord required possession of the property as at 28 September 2024.
- 14 On 21 October 2024 the Applicant sent Fife Council a notice under section 11 of the Homelessness etc (Scotland) Act 2003 by email.
- 15 The Applicant seeks possession of the property in order to carry out renovations with a view to selling it on the open market.
- 16 The property is the only rental property owned by the Applicant. The Applicant wishes to leave the rental market.
- 17 The Respondent resides in the property with her dog.
- 18 The Respondent does not oppose an eviction order. The Respondent has alternative accommodation available. The Respondent intends to move into her father's home.

Reasons for decision

- 19 The Tribunal considered that it could make relevant findings in fact and reach a decision on the application following the CMD based on the documentary evidence before it and the submissions from parties at the CMD. The Respondent did not seek to challenge any of the evidence submitted by the Applicant. The Tribunal did not therefore identify any issues to be resolved that would require a hearing and concluded it could determine the application without a hearing in terms of Rule 18 of the Rules as to do so would not be contrary to the interests of the parties in this case.
- 20 The relevant legislation the Tribunal must have regard to when considering an application under Rule 66 are sections 32 and 33 of the 1988 Act:-

“32 Short assured tenancies.

(1) A short assured tenancy is an assured tenancy—

(a) which is for a term of not less than six 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 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 that tenancy; and
(d) states that the assured tenancy to which it relates is to be a short assured tenancy.

(3) Subject to subsection (4) below, if, at the finish of a short assured tenancy—
(a) it continues by tacit relocation; ...
(b).
the continued tenancy... shall be a short assured tenancy, whether or not it fulfils the conditions in paragraphs (a) and (b) of subsection (1) above.”

“33 Recovery of possession on termination of a short assured tenancy.

(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.”

- 21** The Tribunal was satisfied based on the documentary evidence before it that the Applicant had complied with the requirements of section 32 of the 1988 Act and the tenancy between the parties was therefore a short assured tenancy.
- 22** The Tribunal was further satisfied that the Applicant had terminated the contractual tenancy between the parties by giving the Respondent a notice to quit, and had also given her notice under section 33(1)(d) of the 1988 Act. The Tribunal therefore considered whether it would be reasonable to make an eviction order in this case.
- 23** The Tribunal took into account the Applicant’s reasons for terminating the tenancy, namely to carry out renovations in order to sell and remove himself from the rental market. The Tribunal also took into account the Applicant’s property rights, which would entitle him to possession of the property, were the

tenancy between the parties not in place. He was entitled, on that basis, to dispose of the property as he saw fit. These were factors to which the Tribunal gave significant weight.

- 24** The Tribunal carefully considered the Respondent's circumstances. The overriding factor in terms of reasonableness was the fact that the Respondent did not oppose the eviction order. The Tribunal took into account the fact that she had alternative accommodation available with her father, and was just looking for a few weeks to move out. The Tribunal therefore concluded that there would be no prejudice to her if an eviction order was granted, as the Applicant would be unable to take steps to enforce the order until the 30 day appeal period had expired.
- 25** Accordingly, having assessed those factors relevant to reasonableness in this case, the Tribunal determined that the balance weighed in favour of making an eviction order.
- 26** The Tribunal therefore made an eviction order under section 33 of the 1988 Act. The decision of the Tribunal was unanimous.

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.

Ruth O'Hare

14 July 2025

Legal Member/Chair

Date