



**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/24/4985**

**Re: Property at 85 Highfield Road, Kirkintilloch, G66 2EG (“the Property”)**

**Parties:**

**Miss Claire Stirling, 1 Birch Drive, Lenzie, G66 4PG (“the Applicant”)**

**Miss Catherine Rodger, 85 Highfield Road, Kirkintilloch, G66 2EG (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mr A 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.**

**Background**

1. This is a Rule 66 application whereby the Applicant is seeking an order for possession in terms of section 33 of the Housing (Scotland) Act 1988 (“the Act”). The Applicant representative lodged a short assured tenancy commencing on 31<sup>st</sup> August 2012 and ending on 28<sup>th</sup> February 2013, and evidence of further tenancy agreements put in place thereafter with the same ish date, two Forms AT5, and copy notice to quit and section 33 notice with evidence of service.
2. By email dated 8<sup>th</sup> May 2025, the Respondent representative lodged written representations.

**Case Management Discussion**

3. A Case Management Discussion (“CMD”) took place by telephone conference on 29<sup>th</sup> July 2025. The Respondent was in attendance and represented by Ms Amy Dallas, Citizens Advice Bureau. The Applicant representative was not initially in attendance. Efforts were made by the Tribunal Clerk to contact the Applicant representative. Ms Sharon Cooke, CODA Estates, joined the line to

represent the Applicant. Ms Cooke explained that the Applicant representative had not had notification of the CMD. It transpired that notification had mistakenly been given to the Applicant, who also works, on a self-employed basis, for CODA Estates. The Applicant had not discussed this with her representative, and CODA Estates were unaware of the CMD.

### **The Applicant's position**

4. Ms Cooke said the Applicant is the landlord of six properties. She wishes to sell her portfolio as it is no longer financially viable. The Applicant has sold one property. The Applicant is seeking an order for possession. Responding to questions from the Tribunal, Ms Cooke said there are rent arrears of £361.29, but the Respondent has been a good tenant.

### **The Respondent's position**

5. Ms Dallas referred to her written representations. The Respondent has three children, one of whom is currently being assisted by CAMHS. The Respondent's mother has health issues and lives nearby. The Respondent acts as her mother's carer and requires to be close by. The Respondent cannot afford to rent privately and wishes the security of tenure of social housing, however, there is a shortage of both social housing and temporary accommodation. Ms Dallas said the rent arrears have arisen as a result of the Respondent migrating to Universal Credit and an application has been made for discretionary payments to cover the arrears.
6. The Respondent said there have been ongoing repairing issues at the Property which the Applicant has not addressed. The Respondent described the Applicant as a poor landlord. However, the Respondent views the Property as a roof over her children's heads. The Respondent said she has been on the housing list for some time, since she was issued with an invalid notice to quit previously.
7. Responding to questions from the Tribunal, Ms Dallas said the Respondent does not wish to remain in the Property long term, but she wishes to remain until she is allocated suitable social housing. Ms Dallas said she had discussed the possibility of making an application in terms of the repairing standard, but the Respondent had chosen not to do this. There was further discussion about the possibility of an extension to the period allowed for execution of an order. Ms Dallas requested an adjournment to discuss matters with the Respondent. The Tribunal adjourned to allow discussion.
8. Upon reconvening, Ms Dallas informed the Tribunal the Respondent would wish an order for possession to be granted with an additional period of two months before it could be executed. Ms Cooke confirmed there was no opposition to that proposal on behalf of the Applicant.

## **Findings in Fact and Law**

9.
  - (i) The Applicant is the heritable proprietor of the Property.
  - (ii) Parties entered into a short assured tenancy agreement with the Applicant commencing on 31<sup>st</sup> August 2012 to 28<sup>th</sup> February 2013, and two-monthly thereafter.
  - (iii) Notice to Quit and Section 33 Notice were served on the Respondent.
  - (iv) The short assured tenancy has reached its ish date.
  - (v) The contractual tenancy terminated on 28<sup>th</sup> February 2025.
  - (vi) Tacit relocation is not in operation.
  - (vii) The Applicant has given the Respondent notice that they require possession of the Property.
  - (viii) It is reasonable to grant the order for possession.

## **Reasons for Decision**

10. 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.
11. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that they require possession of the Property.
12. In considering reasonableness, the Tribunal took into account the circumstances of both parties.
13. The Tribunal took into account the representations on behalf of the Applicant that it is no longer financially viable to continue letting property. The Tribunal considered the fact that the Applicant has several properties which require to be sold.
14. The Tribunal took into account that, although the Respondent is concerned about the effect of eviction upon her children, she also has concerns about the state of the Property, and does not wish to remain in the Property long term. The Respondent would prefer to have the security of tenure provided by social housing. The Tribunal took into account that the Respondent was keen to have an extended period for execution of the order for possession to allow more opportunity for suitable social housing to be allocated.

15. In all the circumstances, the Tribunal considered it was reasonable to grant the order for possession. The Tribunal considered it was reasonable to delay execution of the order for a period of two months beyond the statutory appeal period.

### **Decision**

16. 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 1<sup>st</sup> November 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

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Legal Member/Chair

**7<sup>th</sup> August 2025**  
Date