

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/25/0538

Re: Property at 8 Highlea Circle, Balerno, EH14 7HG (“the Property”)

Parties:

**Mr Keith Symington, Mrs Beatrice Symington, 3 Riccarton Mains Cottage,
Riccarton Mains Road, Currie, EH14 4AR (“the Applicants”)**

Mr Grant Anderson, 8 Highlea Circle, Balerno, EH14 7HG (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants were entitled to an order for possession of the property.

Background

1. By application dated 7 February 2025 the Applicants’ representatives, Pure Property Management Limited, Edinburgh, applied to the Tribunal for an order for possession of the property in terms of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicants’ representatives submitted a copy of a short assured tenancy agreement, Form AT5, a Notice to Quit and Section 33 Notice with proof of service, a rent statement, rent increase notices, pre-action requirement letters and a Section 11 Notice in support of the application.
2. By Notice of Acceptance dated 11 March 2025 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 2 May 2025.

The Case Management Discussion

4. A CMD was held by teleconference on 22 July 2025. The Applicants were represented by Mr Ashley Puren from the Applicants' representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation had been given to the Respondent determined to proceed in his absence.
5. The Tribunal noted that the Respondent had commenced a short assured tenancy of the property on 20 July 2017 that had endured until 21 January 2018 and then continued from month to month thereafter. The Tribunal also noted that the Respondent had fallen into arrears in 2022 and again in 2023 and that the situation had become worse in 2024 and that by January 2025 the Respondent owed £6239.00 in rent and that at the date of the CMD this had increased to £10155.00. The Tribunal also noted that the Respondent had been served with a Notice to Quit and Section 33 Notice by Sheriff Officers on 1 November 2024 and that the Applicants' representatives had sent pre-action protocol letters to the Respondent in September and October 2024. The Tribunal was also advised by Mr Puren that the Respondent's last rent payment had been in April 2025. Mr Puren confirmed that a Section 11 Notice had been sent to the local authority advising that proceedings had been commenced.
6. Mr Puren advised the Tribunal that the Respondent was a self-employed tradesman and that it was thought he was struggling financially. Mr Puren said that he and his team had tried to engage with the Respondent but that the Respondent had been denying access and that there had not been much response to emails or to a proposed payment plan.
7. In response to a query from the Tribunal, Mr Puren said that the Respondent was in his thirties or forties and lived alone in the property and as far as Mr Puren was aware had no health issues or disabilities apart from suffering during Covid from some depression as had many people. Mr Puren also confirmed that the Respondent had not lodged any objections to the rent increases.
8. In response to a query as regards the Applicants' circumstances, Mr Puren said that as far as he was aware the property was the Applicants only let property and was subject to a mortgage and the loss of rent was placing a financial strain on them. Mr Puren understood that it was the Applicants' intention to re-let the property if they obtained possession.

Findings in Fact

9. The parties entered into a short assured tenancy of the property that commenced on 20 July 2017 and endured until 21 January 2018.

10. The Respondent was served with a Notice to Quit and Section 33 Notice by Sheriff Officers on 1 November 2024.
11. The Respondent has a history of incurring rent arrears since about 2022 and by January 2025 owed rent amounting to £6239.00.
12. As at 20 June 2025 the Respondent owed rent of £10155.00.
13. The Respondent was sent pre-action protocol letters by the Applicants' representatives in September and October 2024.
14. Intimation of the proceedings has been sent to the local authority by way of a Section 11 Notice.
15. The Applicants have a mortgage over the property and are suffering financially due to the non-payment of rent by the Respondent.
16. The Respondent lives in the property alone.
17. The Respondent is self-employed.
18. The Respondent is not known to have any health or disability issues.
19. The Respondent has failed to engage in any meaningful way with the Applicants' representatives to address the rent arrears.

Reasons for Decision

20. The Tribunal was satisfied from the written representations and documents together with the oral submissions from Mr Puren that the parties commenced a short assured tenancy on 20 July 2017 and that a valid Notice to Quit and Section 33 Notice was served on the Respondent by Sheriff Officers on 1 November 2024 and that a Section 11 Notice had been sent to the local authority and that pre-action requirement letters had been sent to the Respondent. The Tribunal was therefore satisfied that procedurally the requirements for granting an order for possession had been met subject to being satisfied that it was reasonable for an order to be granted.
21. In reaching its decision on reasonableness the Tribunal took account of the fact that despite being given an opportunity to submit written representations and to attend the CMD the Respondent chose to do neither. The Tribunal also took into account the very substantial level of rent arrears that had accrued and the failure of the Respondent to engage with the Applicants' representatives in any meaningful way to try and address the arrears. The Tribunal noted that the Respondent lived alone in the property and that as far as Mr Puren was aware did not have any current health issues or disabilities. The Tribunal was satisfied that the nonpayment of rent was having an adverse effect on the Applicants' finances who had a mortgage to pay on the property and in the circumstances the Tribunal was satisfied that it was reasonable to grant the order sought.

Decision

22. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing finds the Applicants entitled to an order for possession of the property.

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
Legal Member/Chair

22 July 2025
Date