



**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/25/1376**

**Re: Property at 22 Sunnyside Avenue, Holytown, ML1 4RZ (“the Property”)**

**Parties:**

**Mr Paul Norris, 27 Pines Ave, Worthing, BN14 9JG (“the Applicant”)**

**Mrs Irfana Ahmad, 22 Sunnyside Avenue, Holytown, ML1 4RZ (“the  
Respondent”)**

**Tribunal Members:**

**Martin McAllister (Legal Member) and Sara Hesp (Ordinary Member)**

**Decision (in absence of the Respondent)**

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

**Background**

- 1. This is an application under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”) for recovery of possession of the Property. It is dated 1 April 2025.**
- 2. The application was accepted for determination on 17 April 2025.**

**Case Management Discussion**

- 3. A case management discussion was held by teleconference on 8 August 2025.**
- 4. The Applicant was not present but was represented by Mr Graham Whiteford of Loam Property Limited, Letting and Management Agents.**

**5. The Respondent was present.**

## **Preliminary Matters**

**6. The legal member explained the purpose of a case management discussion.**

**7. Both parties submitted that the tribunal had sufficient information to determine the application and that there was no other evidence which they could bring before a Hearing.**

## **8. Findings in Fact**

**8.1 The Applicant and the Respondent are parties to a short assured tenancy agreement in respect of the Property dated 13 November 2015.**

**8.2 The term of the tenancy was from 9 November 2015 to 10 May 2016 (both dates inclusive).**

**8.3 The tenancy agreement provided for the tenancy to continue on a month to month basis if it was not brought to an end on 10 May 2016.**

**8.4 The Applicant served a Section 33 Notice on the Respondent on 6 December 2024 requiring vacation of the Property by 10 February 2025.**

**8.5 The Respondent remains in occupation of the Property.**

**8.6 The required notice in terms of the Homelessness etc. (Scotland) Act 2003 has been given to the local authority.**

## **9. Findings in Fact and Law**

**9.1 The tenancy continued by tacit relocation from 10 May 2016 until it was brought to an end by service of the Notice to Quit on 6 December 2024.**

**9.2 The tenancy ended on 10 February 2025.**

**9.3 The Applicant is entitled to recover the Property because the tenancy has been brought to an end.**

**9.4 It is reasonable for the order of eviction to be granted.**

## **Documents**

**10. The Tribunal considered the documents which had been lodged with the application:**

- 10.1 Copy of the short assured tenancy agreement dated 13 November 2015.**
- 10.2 AT5 Form relating to the short assured tenancy.**
- 10.3 Notice to Quit served on 6 December 2024 requiring the Respondent to leave the Property by 10 February 2025.**
- 10.4 Section 33 Notice served on 6 December 2025.**
- 10.5 Sheriff Officer's certificate of citation in respect of service of the Notice to Quit and Section 33 Notice.**
- 10.6 Copy of Notice to local authority under Section 11 of the Homelessness etc (Scotland) Act 2003.**

## **Applicant's Position**

**11. Mr Whiteford said that the Applicant owes two properties in Scotland and that they are currently subject to fixed term mortgages which are coming to an end. He said that the Applicant will require to re-mortgage the properties and that the interest rate will be such that his continuation in the rental market will not be viable. Mr Whiteford said that the Applicant intends to sell the Property once he has vacant possession.**

## **Respondent's Position**

**12. Mrs Ahmed said that she lived in the Property with her husband and two young children. She said that she is content that an order of eviction be granted. She said that she no longer wanted to be a private sector tenant because of the rental levels. Mrs Ahmed said that she wanted to be housed by the local authority but that it could not assist her until she had a decree of eviction. She said that she is anxious that matters be resolved as soon as possible so that there is some stability for her family.**

### **13. The Law**

#### **Section 33 Housing (Scotland) Act 1988**

*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.*

*(4) Where the First-tier Tribunal makes an order for possession of a house by virtue of subsection (1) above, any statutory assured tenancy which has arisen as at that finish shall end (without further notice) on the day on which the order takes effect.*

*(5) For the avoidance of doubt, sections 18 and 19 do not apply for the purpose of a landlord seeking to recover possession of the house under this section.*

### **Discussion and Determination**

**14. The tribunal determined that the Applicant had properly served the notice to quit, that the Respondent had been given the appropriate period of notice and that the appropriate notice had been given to the local authority in terms of the Homelessness etc (Scotland) Act 2003.**

- 15. The tribunal determined that the tenancy had been brought to an end at the ish date by service of the notice to quit.**
- 16. The tribunal noted that, prior to the amendments to the 1988 Act, it would have no discretion and would have been required to grant the order of eviction. The tribunal now does have discretion and requires to consider reasonableness.**
- 17. The tribunal did not consider that either party had additional evidence to put before it and that there was therefore no reason to arrange for an evidential Hearing to be arranged.**
- 18. The tribunal noted that the Respondent offered no opposition to the order of eviction being granted.**
- 19. The tribunal accepted that the Applicant has the right to recover the Property given that the tenancy has been brought to an end.**
- 20. On balance, the tribunal determined that it was reasonable to grant the application and to make the order.**

## **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.

# M.McAllister

Date: 8 August 2025