

**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 (Act)**

Chamber Ref: FTS/HPC/EV/24/5367

Re: Property at 31 Davaar Drive, Kirkcaldy, KY2 6RS (“the Property”)

Parties:

Mr Edmiston Dean, 4 Abbots Walk, Kirkcaldy, KY2 5NL (“the Applicant”)

Gemma Walker, 31 Davaar Drive, Kirkcaldy, KY2 6RS (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted but that execution of the order should be postponed to 6 October 2025.

This is an application under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 21 November 2024;
2. AT5 and SAT commencing 14 November 2017;
3. Notice to Quit dated 29 August 2024;
4. Section 33 Notice dated 29 August 2024;
5. Sheriff Officer Certificate of Service of Notice to Quit and Section 33 Notice dated 30 August 2024;
6. Section 11 Notice and email serving on local authority dated 20 November 2024.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 6 August 2025. The Applicant did not participate but was represented by Mr James Thomson, legal executive. The Respondent participated and represented herself.

The Respondent's position

The Respondent was not sure what to do with regard to the application. She felt there had been very little communication with her.

The Tribunal explained to the Respondent that it had to be satisfied that the Ground for eviction was met and that it was reasonable to grant the order in the circumstances.

The Respondent informed the Tribunal that she lived in the Property with her 3 young children aged, 9, 10 and 11 all of whom attended local schools.

The Respondent is disabled with recurrent knee dislocation and arthritis in her knees. She is in receipt of disability benefit and has a mobility car. She has a handrail in the Property to help her.

The Respondent's father lives in the same street and helps her.

She has been in contact with the local authority but they have said they can't do anything until an order has been granted by the Tribunal.

The Applicant's position

The Applicant intended to sell the Property in order to realise the capital and finance his living costs. He has recently suffered a heart attack and is unable to work. He has one other property in addition to his own home and the rental Property.

Mr Thomson was not sure if there was a mortgage over the Property. He confirmed that at most there may be one month's rent arrears.

Decision and Reasons

The Tribunal considered the oral and documentary evidence from the Parties. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a SAT commencing 14 November 2017;
2. An AT5 had been served prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served on 30 August 2024;
4. Section 11 Notice had been served on the local authority on 20 November 2024;
5. The SAT had reached its end and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicant had given the Respondent notice that he required possession;

9. The Applicant required to recover possession of the Property to sell it and realise the capital to finance his living costs having recently suffered a heart attack and no longer being able to work;
10. The Respondent was in contact with the local authority regarding the provision of suitable alternative accommodation for her and her children;
11. The Respondent lives in the Property with her 3 young children aged, 9, 10 and 11 all of whom attended local schools.
12. The Respondent is disabled with recurrent knee dislocation and arthritis in her knees. She is in receipt of disability benefit and has a mobility car. She has a handrail in the Property to help her.
13. The Respondent's father lives in the same street and helps her.

The Tribunal considered all of the evidence and submissions.

The Tribunal were satisfied that Rule 66 had been complied with.

The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal balanced the competing interests of the Parties and determined that it would be reasonable to grant the order sought in the circumstances.

The Tribunal postponed execution of the order to 6 October 2025 under Rule 16A of the Tribunal Procedure Rules. This would allow the Respondent further time to source alternate accommodation. The Tribunal did not require to hear any further evidence.

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.

6 August 2025

Legal Member/Chair

Date