

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/24/3979

Re: Property at 104 Main Street, Crosshill, Fife, KY5 8AN (“the Property”)

Parties:

Mr Edward Sweeney, 1 David Street, Lochgelly, Fife, KY5 9QZ (“the Applicant”)

Mr Mark Hutchison, Miss Jan Hutchison, 104 Main Street, Crosshill, Fife, KY5 8AN (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Sandra Brydon (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.

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 28 August 2024;
2. AT5 and SAT commencing 22 November 2014;
3. Notice to Quit and Section 33 Notice dated and delivered 25 June 2024;
5. Section 11 Notice and email serving on local authority dated 10 November 2024;
7. Sheriff Officer certificate of service of CMD Notification on 7 April 2025.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 8 July 2025. The Applicant participated and represented himself. The Respondents participated and represented themselves.

The Tribunal confirmed the paperwork was in order so it had to consider the question of reasonableness with the Parties.

The Respondents' position

The Respondents confirmed they were not opposing the application. They were in contact with the local authority and were seeking alternate social housing.

The Respondents are both blind. Mr Hutchison suffers from Diabetes Type 1, depression and panic attacks.

The Applicant's position

The Applicant was in the process of selling the Property to a business he had started with his partner and another party. This would be an AirBnB business with 3 properties. This Property was the only one the Applicant owned and he had a mortgage over it. The Rent was considerably less than market rent which he said would be in the region of £750 per month as against the current rent.

Decision and Reasons

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

1. The Parties let the subjects under a SAT commencing 22 November 2014;
2. An AT5 had been served prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served on 25 June 2024;
4. Section 11 Notice had been served on the local authority on 10 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 Respondents notice that he required possession;
9. The Respondents are in contact with the local authority and were seeking alternate housing;
10. The Respondents do not oppose the application;
11. The Respondents are both blind and Mr Hutchison has diabetes type 1, depression and panic attacks;
12. The Applicant is in the process of transferring the Property to an AirBnB business along with his partner and another party;
13. The Applicant has a mortgage over the Property and the Property is let at considerably less than market rent.

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 considered that it was reasonable to grant the order sought in the circumstances and granted the application for eviction and recovery of possession. 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.

Alan Strain

8 July 2025

Legal Member/Chair

Date