



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 66 of the Procedure Rules.

Chamber Ref: FTS/HPC/EV/24/5240

Re: Flat 0/1, 16 Govanhill Street, Glasgow, G42 7JZ ("the Property")

Parties:

Thomas Watt, residing at 20 Willow Park, Ayr, KA7 3TF ('the Applicant')

Norman Fraser, Wallace Hodge & Co Ltd ('the Applicant's Representative')

Rob Buntin residing at Flat 0/1, 16 Govanhill Street, Glasgow, G42 7JZ ('the Respondent')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')

Tribunal Member: Jacqui Taylor (Legal Member) Donald Wooley (Ordinary Member)

1. Background.

The Applicant applied to the Tribunal for eviction/ possession of the Rented Property under section 33 of the Housing (Scotland) Act 1988, in terms of Rule 66 of the Procedure Rules. The application was dated 12th November 2024. The application states: 'Expiry of the tenancy under section 33 of the Housing (Scotland) Act 1988.'

2. Documents lodged with the Tribunal were:-

2.1 The Short Assured Tenancy Agreement dated 1st and 3rd March 2017.

2.2 Form AT5 dated 1st March 2017.

2.3 A copy of the Notice to Quit dated 28th June 2024 giving the Tenant formal notice to quit the Property by 2nd September 2024.

2.4 A copy of the Section 33 Notice to the Tenant dated 28th June 2024 advising him that the Landlord requires vacant possession on or before 2nd September 2024.

2.5 A copy of form AT6 dated 28th June 2024 advising that proceedings will not be raised before 3rd September 2024.

2.6 Copy text message from the Respondent confirming that he received the notices on 3rd July 2024.

2.7 Section 11 Notice addressed to Glasgow City Council.

2.8 A copy of an envelope addressed to Glasgow City Council.

2.9 A copy of the Notice to Quit dated 24th February 2025 giving the Tenant formal notice to quit the Property by 2nd May 2025..

2.10 A copy of the Section 33 Notice to the Tenant dated 24th February 2025 advising him that the Landlord requires vacant possession on or before 3rd May 2025.

2.11 A Certificate of execution of service by Graeme Scott, Sheriff Officer, dated 27th February 2025 certifying that the notice to quit and section 33 notice were served on the respondent on 27th February 2025.

3. By Notice of Acceptance by Alan Strain, Convener of the Tribunal, dated 25th March 2025 he intimated that he had decided to refer the application (which application paperwork comprises documents received between 12th November 2024 and 19th February 2025) to a Tribunal.

4. The Respondent did not provide any written representations.

5. Case Management Discussion.

5.1 This case called for a conference call Case management Discussion (CMD) at 14.00 on 1st August 2025.

The Applicant and his solicitor Norman Fraser attended.

The Respondent did not attend and was not represented. The Respondent had been served with a letter advising him of the CMD by Andrew McLean, Sheriff Officer on 11th June 2025. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

5.2 Oral Submissions.

5.2.1 Mr Fraser advised the Tribunal that Mr Buntin is a single man in poor health. The Property is no longer suitable for him. He is looking for alternative Local Authority accommodation but the Local Authority will not assist him until the eviction order is granted. In the circumstances he considers that it is reasonable for the Tribunal to grant the eviction order.

5.2.2 Mr Watt advised that he estimated Mr Buntin is around 50 years of age. The Property is a one bedroom studio flat. He has a serious health condition and is not engaging with him. He last saw Mr Buntin approximately a year ago. Mr Buntin has known that Mr Watt wants to sell the Property for several years. The rent payments are up to date. Mr Watt explained that he is a reluctant landlord. The Property was originally owned by his son who first leased the Property to Mr Buntin in 2012. Mr Watt purchased the Property in 2017 jointly with his wife as his son wanted to buy another property. His wife died last year. This Property is the only rental property he owns. He wants to sell the Property to ensure that if anything happened to him he was not leaving a complicated situation for his family to resolve. The rent has not been increased since 2012. He thinks that Mr Buntin is trying to ignore the situation. Accompanied by his daughter, he called on Mr Buntin last year and they gave him leaflets detailing organisations who could assist him.

6. The Tribunal made the following findings in fact:

6.1 The Applicant is Landlord of the Property. He is owner of the Property and his title is registered in the Land Register of Scotland under title number GLA68937.

6.2 The Respondent is Tenant of the Property in terms of the Tenancy between the parties.

6.3 The Tenancy is a Short Assured Tenancy. A copy of the required AT5 has been produced.

6.4 The Short Assured Tenancy Agreement is dated 1st and 3rd March 2017.

6.5 The term of the Tenancy was from 3rd March 2017 to and 2nd March 2018 and monthly thereafter until terminated.

6.6 The Notice to Quit was served on the Respondent on 3rd July 2024.

6.7 The ish date of the tenancy was 2nd September 2024.

6.8 Following service of the Notice to Quit dated 28th June 2024 the contractual tenancy ended on 2nd September 2024.

6.9 There is no ongoing contractual tenancy in place.

6.10 The section 33 notice dated 24th February 2025 was served on the Respondent on 27th February 2025.

6.11 The Landlord wishes to sell the Property to rationalise his affairs.

6.12 The Respondent has known of the Landlord's intention to sell the Property for several years.

6.13 The Local Authority will not process the Respondent's rehousing application until the eviction order is granted.

7. Requirements of Section 66 of the Procedure Rules.

(a) The Tribunal confirmed that the application correctly detailed the requirements of section 66 of the Procedure Rules namely:-

- (i) the name, address and registration number of the Landlord.
- (ii) the name and address of the Landlord's representative.
- (iii) the name and address of the Tenants.

(b) The Tribunal confirmed that the documents specified in Section 66(b) of the Procedure Rules have been produced, namely:

- (i) The Tenancy Agreement.
- (ii) The Notice that the tenancy is a short assured tenancy.
- (iii) The notice given to the tenant under section 33(1)(d) of the 1988 Act.
- (iv) The notice to quit served by the Landlord on the Tenant.
- (v) The required notice giving Council notice of the proceedings under section 11 of the Homelessness etc Scotland Act 2003.

(c) The Tribunal confirmed that the application form had been correctly signed and dated by the Landlord's Representative, as required by Section 66(c) of the Procedure Rules.

8.Requirements of Section 33 of the Housing (Scotland) Act 1988

8.1 The tenancy agreement states that the tenancy will commence 3rd March 2017 and end on 2nd March 2018 and it continued further on a month to month basis until terminated.

8.2 The Notice to Quit dated 28th June 2024 had been served on the Tenant who had confirmed that he had received it on 3rd July 2024. The Notice to Quit required the Tenant to vacate the Property on 2nd September 2024, being the end of the tenancy. The required period of forty days clear notice had been given for service of the Notice to Quit. The second Notice to Quit was superfluous.

8.3 The first section 33 Notice dated 28th June 2024 was received by the Respondent on 3rd July 2024 and did not give the Respondent the required period of two months notice. The second section 33 Notice dated 24th February 2025 was served on the Respondent on 27th February 2025 and gave the Respondent more than the required period of two months notice.

8.4 Section 33(1)(e) of the Housing (Scotland) Act 1988 requires the Tribunal to be satisfied that it is reasonable to grant the Order for Possession.

8.4.1 The Tribunal were mindful of the decision of Lord Greene in the case of *Cummings v Dawson* (1942) 2 All ER 653 on matters to consider when determining reasonableness:

'In considering reasonableness... it is my opinion, perfectly clear that the duty of the judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad, common sense way as a man of the world, and to come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or more weight, others may be decisive.'

8.4.2 The Tribunal found that it was reasonable for the eviction order to be granted for the following reasons:

8.4.2.1. The Landlord wishes to sell the Property to rationalise his affairs.

8.4.2.2 The fact that the Respondent has known of the Landlord's intention to sell the Property for several years.

8.4.2.3 The Local Authority will not process the Respondent's application until the eviction order is granted and

8.4.2.4 The Respondent has not lodged any written representations opposing the eviction application.

8.5 The Tribunal were satisfied that the requirements of section 33 have been met, namely that:

- (i) The Short assured Tenancy has reached its ish.
- (ii) That tacit relocation is not operating.
- (iii) That the Landlords have given to the Tenant notice stating that they require possession of the Property. In terms of section 33(2) the period of notice is two months. And
- (iv) That it is reasonable to make an order for possession.

9. Decision

9.1 The Tribunal determined that the requirements of section 33(1) of the Housing (Scotland Act) 1988 had been complied with and made an order for possession of the Property.

9.2 The decision of the Tribunal was unanimous.

10. 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.

Jacqui Taylor

1st August 2025

Legal Member