



**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/24/5439

Re: Property at 32 Queen Street, Grangemouth, FK3 9AU (“the Property”)

Parties:

Mrs Katharine Anne McArthur, 25 Princes Street, Grangemouth, FK3 9DH (“the Applicant”)

Mr David Hill and Ms Kenina Hill, both 32 Queen Street, Grangemouth, FK3 9AU (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

Background

1. By application, dated 22 November 2024, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy.
2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 12 June 2017 and, if not terminated at the end of the initial period of six months, continuing until terminated by either Party in terms of Clause 38 of the Tenancy Agreement, and copies of a Notice under Section 33 of the 1988 Act, and a Notice to Quit, both dated 10 September 2024, and both requiring the Respondent to vacate the Property by 12 November 2024.

3. On 12 April 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 3 May 2025.
4. On 10 July 2025, the Respondents made written submissions to the Tribunal. They said that they understood the predicament the Applicant is in due to the passing of her husband. As the Respondents are seeking Council property they would not be deemed as homeless until such times as the Respondent took them to court. They had been actively bidding on Council properties but to date had not been successful. They accepted the anticipated decision of the Tribunal. The Council have started the homeless assessment process. The Respondents hoped to have a Council Property prior to their eviction date which they anticipated would be 12 September 2025.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the morning of 23 July 2025. The Applicant was represented by Mr Philip Bonnar of Russel & Aitken (Falkirk and Alloa) Limited, solicitors. The Respondents were present and were supported by their daughter, Mrs Kenina Williamson, who spoke on their behalf.
6. The Applicant's representative told the Tribunal that the Applicant, when younger, could manage having a rental property, as the stress was shared with her husband, but she is now older, has lost her husband and finds the process unmanageable. She wishes to leave the rental sector and sell the Property in order to enjoy her retirement. Mr Bonnar was not aware of the Applicant owning any other rental properties.
7. Mrs Williamson told the Tribunal that the Respondents understood the Applicant's position and did not oppose the making of an Order for Possession. Their homelessness application has been made and, due to their age and health conditions, they have now been assessed as Priority 1 by Falkirk Council, but they require adapted accommodation with a level access shower. Mrs Williamson noted that her parents had not been very prescriptive about areas for rehousing, but she was their carer and lived in Bo'ness, so East Falkirk area was preferred and they were noted also for housing association properties. Such properties came up regularly and they had bid for them unsuccessfully while at Priority 2 but hoped their additional priority would now enhance their prospects and lead to allocation of a permanent home. Mr Hill has vascular dementia and the prospect of having to move into temporary accommodation to await a permanent allocation of a home would be very unsettling for him. It would, therefore, be of help if the earliest eviction date could be extended, in the hope that the two-move scenario could be avoided. The Applicant had already had an estate agent visit the Property and that had caused confusion for Mr Hill.
8. Mr Bonnar said that the Applicant would be opposed to a delay to the earliest date for enforcement of the Order, as it would not necessarily assist the Respondents. Rather, it would allow the Council breathing space to push their

application for re-housing further down the road, with others with a more pressing eviction date being given preference for any properties that became available in the meantime. It would also delay the start of the sale process. Until the recent addition of a reasonableness test, the application would have been granted automatically, and the present process has been going on for many months. The best solution for all would be a clean break.

Reasons for Decision

9. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
10. Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.
11. The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was no longer operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given. The remaining matter for the Tribunal to consider was, therefore, whether it would be reasonable to issue an Order for Possession.
12. In arriving at its decision as to whether it would be reasonable to make an Order for Possession, the Tribunal considered carefully all the evidence before it. The view of the Tribunal was that the Applicant wishes to recover the Property in order to sell it and the Respondents do not oppose the making of an Order for Possession and feel that it would be beneficial to them in the process of securing a suitable local authority house to have an Order, which would provide a definite enforcement date.
13. Having carefully considered the representations of both Parties, the Tribunal decided that it would be reasonable to make an Order for Possession.
14. The Tribunal then considered whether an extension of the earliest enforcement date beyond the normal 30-day period would be appropriate. The Tribunal noted the argument made on behalf of the Applicant that, at the time the tenancy began, there was no reasonableness test and that the process had begun with a Notice to Quit in April 2024, although it was defective and was superseded by Notices given in September 2024. The Tribunal accepted that the process had been very lengthy and that it would be a year from the date of the Notices before the earliest date on which the Tribunal's Order could be enforced and the process of selling the Property

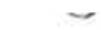
could begin. The view of the Tribunal was, however, that the inconvenience that a short delay might cause to the Applicant was outweighed by the fact that the Respondents are elderly and in poor health and it will be very unsettling for them and confusing to Mr Hill, if they have to make two moves, the first into temporary accommodation and the second into a council or housing association house or flat. It appears that the Respondents have done everything they can to make progress in finding alternative accommodation in the social housing sector and are working closely with their local Council. The Tribunal has no way of knowing how long the process of providing suitably adapted permanent accommodation will take but felt that it would be reasonable in all the circumstances to extend the earliest date on which its Order could be enforced to two months after the date of this Decision.

15. The Tribunal's decision was unanimous.

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.

George Clark



George Clark
Legal Member/Chair

23 July 2025

Date