



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/25/0226

Re: 136 Gardener Crescent, Bathgate, EH47 0NP ("the Property")

Parties:

Stephen Todd and Margaret Laidler residing together at 27 Rashierigg Place, Longridge, Bathgate, EH47 8AT ('the Applicants')

Kirsty Donnelly, TC Young, Solicitors ('the Applicants' Representative')

Sylvia Keeley residing at 136 Gardener Crescent, Bathgate, EH47 0NP ('the Respondent')

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

Tribunal Member: Jacqui Taylor (Legal Member) Helen Barclay (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 20th January 2025. The application states: 'On 13th September 2024 the Applicants served upon the Respondent a Notice to Quit. In terms of the Notice to Quit the Applicants gave notice to the Respondent that he was required to remove from the Property on or before 29th November 2024. Further, on 13th September 2024, the Applicants served upon the Respondent Notice under section 33(1)(d) of the Housing (Scotland) Act 1988 stating that they required possession of the Property as at 29th November 2024.

The short assured tenancy between the Applicants and the Respondent has reached its end as at 29 November 2024, tacit relocation is not operating. No further contractual

tenancy is in existence. The Applicants have complied with the terms of section 33(1)(d) of the Housing (Scotland) Act 1988.

In terms of reasonableness, the Applicants require vacant possession in order to sell the let Property. The second named Applicant is retired, and the First Named Applicant is looking to retire in the near future. The Applicants intend to move away from the area and require to sell the let Property as they require the proceeds of sale to fund their move. The Applicants also require to sell the let Property as they would be unable to fulfil their obligations as landlord from their new location.

The Applicants have previously on two occasions attempted to sell the let Property with sitting tenants, however they have not received any suitable offers. The Applicants require vacant possession in order that they can sell the let Property for its market value. In the circumstances it is reasonable that an order for repossession should be granted.'

2. Documents lodged with the Tribunal were:-

2.1 The Short Assured Tenancy Agreement dated 20th September 2017.

2.2 Form AT5 dated 20th September 2017.

2.3 A copy of the Notice to Quit dated 13th September 2024 giving the Tenant formal notice to quit the Property by 29th November 2024.

2.4 A copy of the Section 33 Notice to the Tenant dated 13th September 2024 advising her that the Landlords require vacant possession on or before 29th November 2024.

2.5 A Certificate of execution of service by Steven Cameron, Sheriff Officer, dated 13th September 2024 certifying that the notice to quit and section 33 notice were served on the Respondent on 13th September 2024.

2.6 Section 11 Notice addressed to West Lothian Council.

2.7 A copy of the email dated 20th January 2025 to West Lothian Council sending the section 11 notice.

3. By Notice of Acceptance by, H Forbes, Convener of the Tribunal, dated 19th February 2024 she intimated that she had decided to refer the application (which application paperwork comprises documents received on 20th January 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 10.00 on 8th August 2025.

The Applicants' Representative Miss Donnelly attended.

The Respondent did not attend and was not represented. The Respondent had been served with a letter advising her of the CMD by Chelsea Murray, Sheriff Officer on 24th 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 by Miss Donnelly:

5.2.1 Mr Todd is 52 years of age and Mrs Laidler is 67 years of age. Mrs Laidler is retired.

5.2.2 The Applicants own two other properties. They wish to sell their properties and retire and relocate. They would not be able to continue to manage the leased properties from the new location. For tax reasons they are selling the properties one at a time.

5.2.3 There is an outstanding mortgage over 136 Gardener Crescent, Bathgate.

5.2.4 The Applicants had unsuccessfully tried to sell the property without vacant possession, with the tenancy in place.

5.2.5 The Respondent has known that the Applicants intended to sell the Property for a long time. In April 2024, before her firm were instructed the Applicants had served Notice to Leave on the Respondent. Although that Notice was invalid the Respondent was made aware of the Applicants intention to sell the Property.

5.2.6 The Applicants have limited contact with the Respondent. The last contact was when the Gas Safety inspection was being carried out. The Applicants felt that it was inappropriate to discuss the eviction application with the Respondent at that time.

5.2.7 The Respondent is unemployed and lives in the Property with her two children who are 7 and 11 years of age.

5.2.8 The Property is a three bedroom semi detached property and it is not adapted for the needs of the Respondent.

6. The Tribunal made the following findings in fact:

6.1 The Applicants are Landlords of the Property. They are owners of the Property and their title is registered in the Land Register of Scotland under title number WLN19097.

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 20th September 2017.

6.5 The term of the Tenancy was from 29th September 2017 to 29th March 2018 and monthly thereafter until terminated.

6.6 The Notice to Quit was served on the Respondent on 13th September 2024.

6.7 The ish date of the tenancy was 29th November 2024.

6.8 Following service of the Notice to Quit dated 13th September 2024 the contractual tenancy ended on 29th November 2024.

6.9 There is no ongoing contractual tenancy in place.

6.10 The section 33 notice dated 13th September 2024 was served on the Respondent on 13th September 2024 .

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 Landlords.
- (ii) the name and address of the Landlords' representative.
- (iii) the name and address of the Tenant.

(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 Landlords 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 on 29th September 2017 and end on 29th March 2018 and it continues further on a month to month basis until terminated.

8.2 The Notice to Quit dated had been served on the Tenant on 13th September 2024. The Notice to Quit required the Tenant to vacate the Property on 29th November 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.

8.3 The section 33 Notice dated was served on the Respondent on 13th September 2024 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 Applicants' need to sell the Property. They have unsuccessfully tried to sell the Property subject to the tenancy.

8.4.2.2 The Applicants intend to retire and relocate and it would not be possible for them to continue to manage the Property from the new location.

8.4.2.3 The rent arrears amount to £1435.

8.4.2.4 The Respondent has known that the Applicants intend to sell the Property since April 2024, over 15 months.

8.4.2.4 The Local Authority has been notified of the application for eviction.

8.4.2.5 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 end.
 - (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

8th August 2025

Legal Member