



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/25/0319

Re: 21 Elm Drive, Abronhill, Cumbernauld, G67 3LL ("the Property")

Parties:

Christopher Brown residing at 17 Glen Road, Bridge of Allan, FK9 4PL ('the Applicant')

Stacey Ward residing at 21 Elm Drive, Abronhill, Cumbernauld, G67 3LL ('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 24th January 2025. The application states: 'Application under rule 66 on the grounds of the termination of the short assured 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 7th October 2015.

2.2 Form AT5 dated 25th September 2015.

2.3 A copy of the Notice to Quit dated 17th July 2024 giving the Tenant formal notice to quit the Property by 7th October 2024.

2.4 A copy of the Section 33 Notice to the Tenant dated 17th July 2024 advising her that the Landlord requires vacant possession on or before 7th October 2024.

2.5 A copy of the AT6 Notice to the Tenant dated 17th July 2024 advising that proceedings would not be raised before 8th October 2024.

2.6 A copy of the letter by the Tenant confirming that she received the Notice to Quit, AT6 and section 33 Notice on 19th July 2024.

2.7 Section 11 Notice addressed to North Lanarkshire Council.

2.8 A copy of the email dated 10th January 2025 to North Lanarkshire Council sending the section 11 notice.

3. By Notice of Acceptance by Fiona Watson, Convener of the Tribunal, dated 21st February 2025 she intimated that she had decided to refer the application (which application paperwork comprises documents received on 27th 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 14.00 on 8th August 2025.

The Applicant and the Respondent attended.

5.2 Oral Submissions by the Applicant.

5.2.1 Mr Brown explained that he wishes the eviction order to be granted so that he can move on with his life. He is 63 years of age. He has nine rental properties. He can no longer deal with the responsibility and management issues as he finds it too stressful and he needs to sell the Property.

5.2.2 The Notice to Quit was served on Miss Ward over a year ago. She has been given ample notice to make alternative arrangements.

5.2.3 He confirmed that he would give Miss Ward sufficient time to vacate the Property if the eviction order was granted.

5.3 Oral Submissions by the Respondent.

5.3.1 Miss Ward advised that she is not opposing the eviction.

5.3.2 She lives in the Property with her two children ages 2 and 11.

5.3.3 She has made applications for Local Authority housing but they will not progress her applications until an eviction order is granted.

6. The Tribunal made the following findings in fact:

6.1 The Applicant is Landlord of the Property. He trades under the name of Kilrock Properties. He is owner of the Property and his title is registered in the Land Register of Scotland under title number DMB28374.

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 7th October 2015.

6.5 The term of the Tenancy was from 7th October 2015 to 7th April 2016. Thereafter the tenancy continued by tacit relocation.

6.6 The Notice to Quit was served on the Respondent on 19th July 2024.

6.7 The ish date of the tenancy was 6th October 2024.

6.8 Following service of the Notice to Quit dated 17th July 2024 the contractual tenancy ended on 7th October 2024.

6.9 There is no ongoing contractual tenancy in place.

6.10 The section 33 notice dated was served on the Respondent

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 Landlord on the Tenant.
- (v) The required notice giving North Lanarkshire 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 7th October 2015 and end on 7th April 2016.

8.2 The Notice to Quit dated 17th July 2024 had been served on the Tenant on 19th July 2024. The Notice to Quit required the Tenant to vacate the Property on 7th October 2024. The Tribunal acknowledged that the date 7th October 2024 is not the ish date. The initial term of the tenancy was from 7th October 2015 to 7th April 2016 and the tenancy thereafter continued by tacit relocation. The ish date was 6th October 2024. The Landlord gave the Tenant an additional one days notice. The Tribunal were satisfied that the additional one days notice did not invalidate the Notice to Quit. The required minimum period of forty days clear notice had been given for service of the Notice to Quit.

8.3 The section 33 Notice dated 17th July 2024 was served on the Respondent on 19th July 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 Applicant needs to sell the Property.

8.4.2.2 The Respondent has been given over a years notice of the eviction.

8.4.2.3 The Respondent has made housing applications to the Local Authority.

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

8.4.2.5 The Respondent is not 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 Landlord has 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