

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014.

Chamber Ref: FTS/HPC/EV/24/5743

Re: Property at 2/2 8 Campbell Street, Johnston, PA5 8EJ (“the Property”)

Parties:

Mr Declan Curran, The Lorne Bar, Stevenson Street, Oban, PA34 5NA (“the Applicant”)

Mr Shaun Croarkin, 2/2 8 Campbell Street, Johnstone, PA5 8EJ (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 2/2 8 Campbell Street, Johnston, PA5 8EJ under Section 33 of the Housing (Scotland) Act 1988 be granted. The order will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicant or others in his name may enter thereon and peaceably possess and enjoy the same.

Background

- 1. This is an action for recovery of possession of the Property raised in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**
- 2. The application was accompanied by a copy of a Short Assured Tenancy Agreement and AT5 dated 11 September 2010, a letter dated 8 July 2024,**

a Section 33 Notice dated 8 July 2024, a Notice to Quit dated 11 July 2024, a Recorded Delivery proof of posting dated 8 July 2024, a history of events from 1 July – 10 December 2024, emails between the Applicant's agent Let It, the Respondent and Renfrewshire Council dated 25 July -1 August 2024, an email from the Respondent dated 5 September 2024, an email from Let It dated 6 September 2024, a letter dated 14 October 2024 and a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 with email to Renfrewshire Council dated 14 October 2024 and an email from Renfrewshire Council dated 14 October 2024.

3. On 18 February 2025, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 25 June 2025, the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 11 August 2025. The Respondent required to lodge written submissions by 16 July 2025. This paperwork was served on the Respondent by Stuart Sinclair, Sheriff Officer, Glasgow on 26 June 2025 and the Execution of Service was received by the Tribunal administration.

Case Management Discussion

5. The Tribunal proceeded with the CMD on 11 August 2025 by way of teleconference. Mr Dunsmore from Let It appeared for the Applicant. The Respondent Mr Croarkin also appeared on his own behalf.
6. The Tribunal had before it the Short Assured Tenancy Agreement and AT5 dated 11 September 2010, the letter dated 8 July 2024, a Section 33 Notice dated 8 July 2024, a Recorded Delivery proof of posting dated 8 July 2024 a Notice to Quit dated 11 July 2024, a history of events from 1 July – 10 December 2024, emails between the Applicant's agent Let It, the Respondent and Renfrewshire Council dated 25 July -1 August 2024, an email from the Respondent dated 5 September 2024, an email from Let It dated 6 September 2024, a letter dated 14 October 2024 and a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 with email to Renfrewshire Council dated 14 October 2024 and an email from Renfrewshire Council dated 14 October 2024. The Tribunal considered the terms of these documents.
7. Mr Dunsmore advised the Tribunal that the Applicant wanted to take the Property back. The Applicant's family live in Oban. The Applicant's daughter was studying full time at Paisley College. Due to the distance she has been renting accommodation in Paisley which is proving expensive. The Applicant wants to recover possession so his daughter can live there without paying rent. She had had to work to be able to afford to live near the college and had had to drop out of college, but was trying to get back in to college to complete her third year. This will be easier if she is not having to work to pay rent.

8. In response Mr Croarkin advised that as soon as he got the Notice to Quit he contacted the local housing associations. He has been advised by the Council that he is not priority and will only become priority when he becomes homeless. He has been making bids on housing association houses since then without success. He has looked at private rents as well but these are extremely expensive. He advised that he is hopeful he will get a housing association house as he is saving up to be able to afford a mortgage and that would allow him to do that. He does not have any family in the area that he could live with.
9. On being questioned by the Tribunal Mr Croarkin advised he was single with no dependents. He had had one offer of accommodation of a high rise flat in a bad area from Linstone Housing Association, which he had refused.

Reasons for Decision

10. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the oral submissions made by the parties at the CMD. The Tribunal concluded that the Applicant was entitled to seek repossession of the Property under Section 33 of the Housing (Scotland) Act 1988. There was a properly constituted Short Assured Tenancy with the Respondent. The Tribunal was satisfied that the statutory provisions of Section 33 of the Housing (Scotland) Act 1988 had been met namely that the Short Assured Tenancy had reached its term (termination date); the Notice to Quit brought the contractual Short Assured Tenancy to an end, and that the Applicants had given the Respondent notice in terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.
11. The terms of Section 33 of the Housing (Scotland) Act 1988 would normally entitle the Applicant to a right of mandatory repossession of the Property. In terms of Schedule 1, paragraph 3 (4) of the Coronavirus (Scotland) Act 2020 the Applicant also has to satisfy the Tribunal that it is reasonable to evict. In determining whether it is reasonable to grant the order the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal gave weight to the Applicant's desire that his daughter be housed in his property without having to pay rent. The Respondent was sensibly taking advice from the local Council with regards to rehousing and was hopeful he would be given some priority. The Respondent was a single man with no dependents. In this case, the balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order.
12. In the circumstances the Tribunal considered that in terms of Section 33 of the Housing (Scotland) Act 1988 as amended it was reasonable to grant an eviction order.

Decision

13. The Tribunal granted an order for repossession. The decision of the Tribunal 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.

Shirley Evans

11 August 2025

Legal Member

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Date