



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 and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/24/5022

Re: Property at 1 DEANSTON GARDENS, GLASGOW, BARRHEAD, G78 2BN (“the Property”)

Parties:

MRS KAREN MUSCAT, 15 HEYS STREET, GLASGOW, BARRHEAD, G78 2EN (“the Applicant”)

MR PAUL KAY and MRS LINDSAY KAY, residing together at 1 DEANSTON GARDENS, GLASGOW, BARRHEAD, G78 2BN (“the Respondents”)

Tribunal Members:

Andrew Cowan (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory requirements for eviction and recovery of possession have been established and that it is reasonable to grant the order sought.

Background

1. By application dated 30th October 2024, the Applicant sought an order under section 33 of the Housing (Scotland) Act 1988 (“the Act”) and in terms of rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

2. On 17th April 2025 the application was accepted by the tribunal and referred for determination by this Tribunal.
3. A Case Management Discussion was arranged to take place on 1st September 2025, and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

4. The Case Management Discussion (CMD) took place on 1st September 2025 by telephone conference call. The Applicant was represented on the call by her solicitor, Ms Anna Bruce of Jones Whyte Law Limited. Both the Respondents also joined the conference call.

Discussions at CMD

5. At the start of the CMD the Applicant's representative confirmed that the Applicant wished to seek an order for eviction of the Respondents from the Property. It was noted that the Respondents had recently been offered alternative housing by the local authority. The local authority had not, as yet, been able to confirm a date by which the Respondents could take occupancy of the alternative property, as repairs required to be carried out to that property. In all the circumstances the Applicant's representative confirmed that the Applicant was willing to delay the date after which an eviction order could be enforced to 30th November 2025. The Respondents both confirmed that they did not wish to oppose the application for eviction where the enforcement of such a decision could not be enforced any earlier than 30th November 2025. On that basis, the Respondents did not wish to argue that the grant of an order of eviction would be unreasonable.

Findings in Fact

6. The Applicant and the Respondents, as respectively the landlord and the tenants, entered into a short assured tenancy of the property by an agreement dated on or around 8th March 2017.
7. The tenancy is a short assured tenancy in terms of the Act.

8. The Applicant has served upon the Respondents a notice to quit and a notice in terms of section 33 (1) (d) of the Act, both notices being dated 2nd August 2024. These notices were served on the Respondents by Recorded Delivery mail. Said notices became effective on 7th October 2024.
9. The notices informed the tenant that the landlord wished to seek recovery of possession using the provisions of section 33 of the Act.
10. The notices were correctly drafted and gave appropriate periods of notice as required by law.
11. The basis for the order for possession was accordingly established.
12. A section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* was served by email upon East Renfrewshire Council by the Applicant, on 30th October 2024.

Decision and reasons

13. An eviction order on this basis can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order
14. In determining whether it is reasonable to grant the order, the tribunal is required to balance all of the evidence which has been presented and to weigh the various factors which apply to the parties.
15. In this case the tribunal finds that it is reasonable to grant the order.
16. The Respondents have confirmed that they do not wish to oppose the application, provided that the date of enforcement of any eviction order is not prior to 30th November 2025.
17. The Tribunal have determined that, having considered all the relevant circumstances, the balance of reasonableness in this case weighs towards the Applicant.
18. The Tribunal's order for eviction shall not be enforceable before 30th November 2025.

19. The Tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD

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.

Andrew Cowan

1st September 2025

Legal Member/Chair

Date