

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 33 of the Housing (Scotland)
Act 1988**

Chamber Ref: FTS/HPC/EV/25/1448

Property: 104 Margaretvale Drive, Larkhall ML9 1EH ("Property")

Parties:

Leigh McLuckie, 51 Clyde View, Ashgill, Larkhall ML9 3DS ("Applicant")

**ELT Lettings, Unit 2a, Block 1 Larkhall Industrial Estate, Larkhall ML9 2PA
("Applicant's Representative")**

Catherine Hunter, 104 Margaretvale Drive, Larkhall ML9 1EH ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Mary Lyden (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
("Tribunal") determined that an order for possession of the Property should be
made but to delay enforcement until 20 October 2025.**

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement which commenced on 4 September 2017 and AT5 dated 30 August 2017; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 29 January 2025 and both addressed to the Respondent; sheriff officer certificate of service evidencing service of the Notice to Quit and Section 33 Notice on the Respondent on 29 January 2025; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 7 April 2025 and sheriff officer execution of service confirming service of the application on the Respondent on 7 July 2025.

On 12 August 2025 the Respondent lodged a copy letter from Housing and Technical Resources, Hamilton Housing Area Office dated 12 August 2025 stating that the Respondent had been offered alternative accommodation.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal by conference call on 19 August 2025. Cheryl Young of the Applicant’s Representative was in attendance as was the Respondent.

Mrs Hunter told the Tribunal that she had been offered alternative accommodation but the local authority would not have the keys returned by the previous tenant until the end of August. Only then would they know the extent of repairs to be carried out to the new property and therefore when Mrs Hunter could take up occupation. Mrs Hunter told the Tribunal that she lives in the Property with her son who is going to university in September and will be staying in student accommodation. She said that she has various health issues which mean she can no longer deal with stairs. She said that she has fallen twice. She said that the new property is a bungalow and therefore more suitable for her needs. She said that she did not oppose the application being granted.

Ms Young told the Tribunal that the Applicant wishes possession of the Property as her son, who lives with her, requires a property to live in. She said that the Applicant owns two other properties but they are not suitable for her son as one is a 3 bedroom property and the other is in a rural location. She said that the Applicant would be flexible around the date on which Mrs Hunter would require to vacate the Property to accommodate the date on which the new property became available.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short assured tenancy agreement which commenced on 4 September 2017.
2. The tenancy was for the period 4 September 2017 to 4 March 2018 and month to month thereafter.
3. A Notice to Quit dated 29 January 2025 was served on the Respondent on 29 January 2025 stating that the tenancy would terminate on 4 April 2025.
4. A Notice in terms of Section 33 of the 1988 Act dated 29 January 2025 was served on the Respondent on 29 January 2025 stating that possession of the property was required on 4 April 2025.
5. The tenancy reached its *ish* on 4 April 2025 and is not continuing by tacit relocation.
6. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy and that a Section 33 Notice and Notice to Quit had been served on the Respondent giving two months' notice that the Applicant required possession of the Property. Having considered all of the circumstances, and in particular the offer of alternative, and more suitable accommodation, from the local authority, the Tribunal determined that it was reasonable to issue an eviction order but to delay enforcement to allow the local authority time to carry out any necessary repairs to the new property.

Decision

The Tribunal grants an Order for possession of the Property but delays enforcement thereof until 20 October 2025.

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.

Joan Devine

Legal Member

Date : 19 August 2025