



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

Reference number: FTS/HPC/EV/25/0949

Order granted on 26 August 2025

Property: 71 Deanpark Avenue, Balerno EH14 7EE

Parties:

Kenneth Bar, residing at 79 Clermiston Crescent, Edinburgh, EH4 7BW
("the Applicant")

Lorraine Swan, residing at 71 Deanpark Avenue, Balerno EH14 7EE ("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)
Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988.

Background

The Applicant sought recovery of possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to Quit and s.33 notice, both served on 10 December 2024, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate

was lodged with the Tribunal which showed that the applicant is heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 2.00pm on 26 August 2025. The Applicant was represented by Ms C Valentine of Lindsays LLP. The Respondent was present but unrepresented. She had her sister with her for moral support.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant (through his friend, Anthony Flynn) and the Respondent entered into a short-assured tenancy Agreement for the Property dated 28 August 2015. The lease initially ran from 1 September 2015 to 1 August 2016.
2. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
3. A notice to quit and a s.33 notice were served on the Respondent on 10 December 2024. The tenancy is a short-assured tenancy. The s.33 notice brought the tenancy to an end on 1 February 2025.
4. The Applicant seeks recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988 because the short-assured tenancy had been brought to an end on 1 February 2025 by the service of the s.33 notice.
5. The Respondent lives in the property with her partner, her daughter and her primary school age grandchild. The property has two bedrooms. The Respondent has applied to the local authority for alternative housing. Her application will only be given serious consideration when an order for repossession is granted. The Respondent does not oppose the application.
6. This is the only rental property the Applicant owns. There is a mortgage secured over the property. The rental income is less than the landlord's monthly outgoings on the property.
7. The respondent does not resist the application for repossession.

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 tenancy was a short-assured tenancy which ended on 1 February 2025. The basis for possession set out in s.33 of the 1988 Act is

established. The respondent offers no defence to the application. The finite time for occupancy of the property as a short-assured tenancy has come to an end. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

The Tribunal determined to make an Order for possession.

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.

Paul Doyle

26 August 2025

Legal Member