

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 and Section 18 of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/EV/25/0961

Re: Property at 6 Winifred Crescent, Kirkcaldy, KY2 5SU (“the Property”)

Parties:

Mr Ian Wilson, Mayview, Newton of Balcormo, Pittenweem, Anstruther, Fife, KY10 2RE (“the Applicant”) and

Jackson Boyd LLP, 124 St Vincent Street, Glasgow, G2 5HF (“the Applicant’s Representative”) and

Mr Grzegorz Bury and Miss Jolanta Habel, 6 Winifred Crescent, Kirkcaldy, KY2 5SU (“the Respondents”)

Tribunal Members:

G McWilliams- Legal Member

E Dickson - Ordinary Member

Decision:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant the Application.

Background and Case Management Discussion on 27th August 2025

1. This is an Application brought in terms of Rule 66 (Application for order for possession upon termination of a short-assured tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”).
2. The Applicant’s Representative had provided the Tribunal, in the Application, with copies of the parties’ Short Assured Tenancy Agreement, Form AT5, Notice to Quit (“NTQ”) and Sections 33 and 11 Notices with relevant Executions of Service. All of these documents and forms had been correctly

and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988 (“the 1988 Act”), and the procedures set out in the Act had been correctly followed and applied.

3. Sheriff Officers had served copies of the Application papers, Guidance Notes and notification of the CMD on the Respondents on 14th July 2025.
4. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2.00pm on 27th August 2025. The Applicant, Mr Wilson, his Representative’s Mr T McTigue and both of the Respondents Mr Bury and Miss Habel attended. The Applicant’s grand-daughter Ms M Lubbe also attended.
5. Mr McTigue referred to the Application, as well as the Affidavits of the Applicant and his grand-daughter which had been lodged in support of the Application. He stated that Mr Wilson wishes to recover possession of the Property so that his grand-daughter can reside there. Mr McTigue also said that there have never been any issues with the Respondents’ tenancy of the Property and that their rent payments are up to date.
6. Mr Bury and Miss Habel stated that they have applied to Fife Council for a tenancy and have been told that their application will be given priority when an eviction order has been granted. Miss Habel said that the Application proceedings are causing them and their children, who are aged 16 and 11, stress and that they wish to obtain another tenancy as soon as they can. She acknowledged that the Application proceedings may also be stressful for Mr Wilson and his grand-daughter. Mr Bury and Miss Habel said that the grant of an eviction order, with a deferred enforcement time of three months, would be acceptable to them as this would, hopefully, allow them sufficient time to obtain a suitable alternative tenancy through their local authority.

Statement of Reasons

7. In terms of Section 33 of the 1988 Act, the Tribunal shall make an order for possession of a house let on a tenancy if:

- (a) the short assured tenancy has reached its end;
- (b) tacit relocation is not operating;
- (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
- (d) the landlord has given to the tenant notice stating that he requires possession of the house.

8. The Tribunal considered all of the available evidence and the submissions of Mr McTigue, Mr Bury and Miss Habel. The Tribunal found in fact that all of the documentation regarding termination of the parties’ tenancy agreement had been validly served on Mr Bury and Miss Habel. They found that Mr Bury and Miss Habel are actively seeking to move out of the Property. The Tribunal further found in fact that both Mr Bury and Miss Habel wish an eviction order to be granted. Having made such findings in fact the Tribunal found in law that the parties’ tenancy agreement has been lawfully brought to an end in terms

of the relevant legislation and that it is reasonable to grant an eviction order. The Tribunal also decided that it is reasonable to grant an eviction order with a deferred enforcement date of 24th November 2025. In reaching the latter decision the Tribunal placed reliance on Mr Bury and Miss Habel's history of being a good tenants, and the Tribunal's knowledge that local authorities are very busy dealing with applications for social housing.

Decision

9. The Tribunal granted an order for Mr Wilson's possession of the Property as sought in the Application, with a deferred enforcement date of 24th November 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.

G McWilliams

G McWilliams
Legal Member

27th August 2025
Date