



**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/25/0736**

**Re: Property at 142 East High Street, Forfar, DD8 2ER (“the Property”)**

**Parties:**

**Mr Alan Hampton, Mrs Caroline Hampton, 97A Glamis Road, Forfar, DD8 1DR  
 (“the Applicants”)**

**Mr Colin Crichton, 142 East High Street, Forfar, DD8 2ER (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Jane Heppenstall (Ordinary Member)**

**Decision (in absence of the Respondent)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”) have been met in this case and it would be reasonable to make an eviction order.

The Tribunal therefore made an eviction order under section 33 of the 1988 Act.

**Background**

- 1 This is an application for an eviction order under section 33 of the 1988 Act and Rule 66 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”).
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 22 August 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 10 July 2025.
- 3 The Tribunal invited the parties to make written representations in advance of the CMD. On 14 August 2025 the Tribunal received an email from Thorntons

Solicitors on behalf of the Applicants with an affidavit. The Tribunal received no written representations from the Respondent.

## **The CMD**

- 4 The CMD took place on 22 August 2025 by teleconference. Mr Calvin Gordon of Thorntons Solicitors represented the Applicants. The Respondent did not join the call. Mr Gordon advised that the Applicants were not expecting him to attend. The Tribunal noted that the Respondent had been given proper notice of the CMD under Rule 17(2) of the Rules. The Tribunal therefore determined to proceed in his absence.
- 5 The Tribunal had the following documents before it:-
  - (i) Form E application form and paper apart;
  - (ii) Title sheet confirming the Applicants as the registered owners of the property;
  - (iii) Excerpt from the online landlord register confirming the Applicants' landlord registration;
  - (iv) Short assured tenancy agreement and Form AT5;
  - (v) Notice to quit and notice under section 33(1)(d) of the 1988 Act together with proof of service upon the Respondent by sheriff officers;
  - (vi) Section 11 notice together with proof of service upon the local authority; and
  - (vii) Affidavit by Bruce Norman Renfrew dated 14 August 2025.
- 6 The Tribunal heard submissions from Mr Gordon on the application. The following is a summary of the key elements of the evidence and is not a verbatim account.
- 7 Mr Gordon confirmed that the Applicants sought an eviction order. The Applicants had a rental portfolio which they were in the process of disposing of. They no longer wished to be landlords. The Applicants were 60 and 57 years old respectively. The condition of the property had also deteriorated. There was a suggestion that the Respondent was keeping animals. The Respondent was the second named Applicant's brother. The relationship between them had broken down following the death of their mother. They were no longer in touch. The Applicants had been told by a third party that the Respondent had applied to Angus Council for housing, however the status of his application was unknown. The Respondent was retired, and was believed to be in receipt of a pension. He was the sole resident of the property. The first named Respondent had tried to help the Respondent in the past, but it had become a difficult situation because of the breakdown in the relationship between the Respondent and the second named Applicant.
- 8 The Tribunal adjourned the CMD to deliberate, at which point Mr Gordon left the call, before resuming the CMD and confirming the outcome.

## Findings in fact

- 9 The Applicants are the owners and landlords, and the Respondent is the tenant, of the property in terms of a short assured tenancy agreement, which commenced on 22 December 2008.
- 10 The Applicants have terminated the contractual assured tenancy between the parties by serving a notice to quit upon the Respondent. Tacit relocation is no longer operating.
- 11 The Applicants have given the Respondent notice that they require possession of the property under section 33(1)(d) of the 1988 Act.
- 12 The Applicants intend to sell the property as soon as possible in order to release the capital. The Applicants no longer wish to be landlords. The Applicants have a rental portfolio and are in the process of selling their rental properties.
- 13 The property is in poor condition internally.
- 14 The Respondent has previously applied to Angus Council for housing. The council is unlikely to provide the Respondent with alternative accommodation until an eviction order is granted by the Tribunal.
- 15 The Respondent is retired and lives alone. The Respondent is the second named Applicant's brother. The relationship between the parties has broken down.

## Reasons for decision

- 16 The Tribunal considered that it could make relevant findings in fact and reach a decision on the application following the CMD based on the information before it. The Tribunal accepted the Applicant's documentary evidence and submissions at the CMD, which were clear and consistent, and the Respondent had not sought to put forward any contradictory evidence. The Tribunal therefore concluded it could determine the application without a hearing in terms of Rule 18 of the Rules as to do so would not be contrary to the interests of the parties in this case.
- 17 The Tribunal considered the wording of section 33 of the 1988 Act:-

### ***"33 Recovery of possession on termination of a short assured tenancy.***

*(1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal may make an order for possession of the house if the Tribunal is satisfied—*

- (a) that the short assured tenancy has reached its finish;*
- (b) that tacit relocation is not operating; ...*

(c).....

*(d) that the landlord (or, where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house, and  
(e) that it is reasonable to make an order for possession.”*

- 18 The Tribunal was satisfied based on the documentary evidence before it that the Applicants had complied with the requirements of section 32 of the 1988 Act and the tenancy between the parties was therefore a short assured tenancy.
- 19 The Tribunal was further satisfied that the Applicants had terminated the contractual tenancy between the parties by giving the Respondent a notice to quit and therefore tacit relocation was not operating. The Applicants had also given the Respondent notice under section 33(1)(d) of the 1988 Act. The Tribunal accepted that the notices had been delivered to the Respondent as evidenced by the sheriff officers certificate of service.
- 20 The Tribunal therefore considered whether it would be reasonable to make an eviction order in this case.
- 21 The Tribunal accepted that the Applicants wished to withdraw from the rental sector and sell the property as part of a wider disposal of their rental portfolio. The Tribunal also accepted their concerns regarding the condition of the property. These were credible reasons for their decision to apply to the Tribunal for an eviction order. The Tribunal also took into account the Applicants' property rights, which would entitle them to possession of the property were an assured tenancy not in place. The Tribunal gave significant weight to these factors in its assessment of reasonableness.
- 22 The Tribunal carefully considered the Respondent's circumstances. The Tribunal took into account the length of time he had occupied the property. The Tribunal also took into account the fact that he was of retirement age. However, the Tribunal gave most weight to the fact that he had not sought to oppose the application. The Tribunal was also cognisant from its own specialist knowledge that the making of an eviction order would likely assist the Respondent by prioritising an application for council housing. At the very least, he would be offered housing on a temporary basis if the Tribunal were to make an eviction order. It was clear that the relationship between the parties in this case had thoroughly broken down, and the Tribunal considered that it may be best for all involved if the Respondent was able to secure a new tenancy.
- 23 Accordingly, having assessed those factors relevant to reasonableness in this case, the Tribunal determined that the balance weighed in favour of making an eviction order.
- 24 The Tribunal therefore made an eviction order under section 33 of the 1988 Act. 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.

# Ruth O'Hare

Legal Member/Chair

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22 August 2025

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Date