



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 3 of the Housing (Scotland)
Act 1988**

Chamber Ref: FTS/HPC/EV/25/0853

**Re: Property at 8A Overtoun Court, Dunswin Avenue, Clydebank, G81 4AJ (“the
Property”)**

Parties:

Mr Mohammed Rafi, 18 Melfort Gardens, Clydebank, G81 2HG (“the Applicant”)

**Mr Pawel Fabisiak, Miss Malgorzata Grzeszczak, 8A Overtoun Court, Dunswin
Avenue, Clydebank, G81 4AJ (“the Respondents”)**

Tribunal Members:

George Clark (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be decided without a Hearing
and made an Order for Possession of the Property.**

Background

1. By application, dated 26 February 2025, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy. The Applicant stated that he wished to sell the Property.
2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 27 April 2012 and, if not terminated at the end of the initial period of six months, continuing on a monthly basis thereafter, and copies of a Notice under Section 33 of the 1988 Act, dated 10 October 2024, and a Notice to Quit, dated 17 October 2024, both requiring the Respondents to vacate the Property by 27 December 2024.

3. On 10 July 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 31 July 2025.
4. On 5 August 2025, the Respondents made written submissions to the Tribunal. They related to discussions between the Respondents and the Applicant's letting agents regarding the second-named Respondent's wish to have the bath removed and replaced by a walk-in shower, as she was shortly to have a second hip replacement operation and would be unable to use a bath. She indicated that she was prepared to meet the cost herself and to reinstate the bath at the end of the tenancy. The remainder of the representations related to repairs issues with the Property, and on 5 August 2025, the Respondents submitted further, very lengthy, representations of over 300 pages, including 200 pages which comprised a tracked record of correspondence. The second-named Respondent also included detailed medical reports and correspondence relating to her health issues.
5. The Respondents asked the Tribunal to be fully aware of their situation and to understand what they had experienced as tenants of the Property. They had been offered a new flat in May 2025 but, due to significant health problems, the second-named Respondent had been unable to move. They were afraid that if the Tribunal made an Order, they would become homeless and would not have time to secure alternative accommodation. The first-named Respondent also had health issues. The property has been their home for 13 years and they have invested a great deal of time, money and care into maintaining, repairing and improving it at their own expense. The Respondents believed they would be able to stay long-term but after requesting adaptations due to disability, they received a Notice to Quit, which was very difficult and destabilising for the second-named Respondent. They did not object to moving out, but in her present state of health, the second-named Respondent was not able to organise the move quickly and safely. They respectfully asked the Tribunal for understanding and for additional time to relocate, so that they are not left homeless and can move in a dignified way, safeguarding the second-named Respondent's health. They stressed that their request for additional time arose solely from genuine health and logistical challenges, not from any desire to avoid obligations towards the Applicant.

Case Management Discussion

6. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 27 July 2025. The Applicant was represented by Colleen McKinley, a Director of Eve Property (Scotland) Limited, Glasgow. The Respondents were both present.
7. The Tribunal advised the Parties that issues between them regarding repairs or the installation of a walk-in shower were not matters that the Tribunal could consider in the present application. The Tribunal's role was to decide whether the requirements of the legislation have been met and, if so, whether it would

be reasonable to make an Order for Possession, having regard to the impact on both Parties of making or not making an Order.

8. The Respondents told the Tribunal that they have secured alternative accommodation but are unable to move, due to the second-named Respondent's problems with mobility and a number of scheduled hospital appointments. They had no objection to an Order for Possession but asked that it should not be enforceable before the end of December 2025, to give them time to move to the new property. Ms McKinley told the Tribunal that this arrangement would be acceptable to the Applicant.

Reasons for Decision

9. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
10. Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.
11. The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was no longer operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given. The remaining matter for the Tribunal to consider was, therefore, whether it would be reasonable to issue an Order for Possession.
12. In arriving at its decision as to whether it would be reasonable to make an Order for Possession, the Tribunal considered carefully all the evidence before it. The view of the Tribunal was that the Applicant wishes to recover the Property in order to sell it and the Respondents do not oppose the making of an Order for Possession, as they have secured another property, their concern being only that the enforcement date should be no sooner than the end of December 2025.
13. Having considered the representations of both Parties, the Tribunal decided that it would be reasonable to make an Order for Possession and that, in accordance with the Respondents' wishes and with the agreement of the Applicant, the normal 30-day period before it could be enforced should be extended to 31 December 2025.
14. The Tribunal's decision 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.

George Clark

Legal Member/Chair

27 August 2025
Date