



**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/25/0694

Re: Property at 10 Rowberry Walk, Prestonpans, EH32 9GH (“the Property”)

Parties:

Mrs Judi Brydone, 69 Blink O'Forth, Prestonpans, EH32 9GA (“the Applicant”)

**Miss Sarah Scott-Telford, 10 Rowberry Walk, Prestonpans, EH32 9GH (“the
Respondent”)**

Tribunal Members:

**Martin McAllister (Legal Member) and Elizabeth Williams (Ordinary Member)
 (“the tribunal”)**

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant be granted an order for possession of
the Property.**

Background

- 1. This is an application under Section 33 of the Housing (Scotland) Act 1988
 (“the 1988 Act”) for recovery of possession of the Property. It is dated 20
 January 2025.**
- 2. The application was accepted for determination on 12 May 2025.**

Case Management Discussion

- 3. A case management discussion was held by teleconference on 15
 October 2025.**
- 4. The Applicant was not present and was represented by her daughter, Mrs
 Lorna Eccleshall.**

5. The Respondent was present.

Preliminary Matters

6. The legal member explained the purpose of a case management discussion.
7. The Applicant said that the Respondent was still residing in the Property.
8. The Respondent said that, when she had received the Notice to Quit, she had tried to find accommodation in the private rental market. She said that the rents being sought were not affordable for her. The Respondent said that the local authority had told her that it could not assist her until there was an order from the Tribunal.

9. Findings in Fact

- 9.1 The Applicant and the Respondent are parties to a short assured tenancy agreement in respect of the Property dated 22 and 29 April 2013.
- 9.2 The term of the tenancy was for a period of six months and two days from 29 April 2013 to 1 November 2013.
- 9.3 The tenancy agreement provided for the tenancy to continue for periods of six months and two days if it was not brought to an end on 1 November 2013, and there was a provision that it could be terminated by either party giving one month's notice to the other.
- 9.4 The Applicant served a Section 33 Notice and a Notice to Quit on the Respondent on 1 November 2024 requiring vacation of the Property by 6 January 2025.
- 9.5 Tacit relocation is not operating.
- 9.6 The Respondent remains in occupation of the Property.
- 9.7 The required notice in terms of the Homelessness etc. (Scotland) Act 2003 has been given to the local authority.

10. Findings in Fact and Law

- 10.1 The tenancy continued by tacit relocation from 1 November 2013 until it was brought to an end by service of the Notice to Quit on 1 November.

- 10.2 The tenancy ended on 6 January 2025.**
- 10.3 The Applicant is entitled to recover the Property because the tenancy has been brought to an end on an ish date.**
- 10.4 It is reasonable for the order of eviction to be granted.**

Documents

11. The Tribunal considered the documents which had been lodged with the application:

- 11.1 Copy of the short assured tenancy agreement dated 22 and 29 April 2013**
- 11.2 AT5 Form relating to the short assured tenancy.**
- 11.3 Notice to Quit served on 1 November 2024 requiring the Respondent to leave the Property by 6 January 2025.**
- 11.4 Section 33 Notice served on 1 November 2024.**
- 11.5 Copy of Notice to local authority under Section 11 of the Homelessness etc (Scotland) Act 2003.**

Applicant's Position

12. Mrs Eccleshall said that her mother had owned the Property for some years and that she has no other buy to let properties. She said that the Applicant is now almost seventy five and that she wants to recover possession of the Property so that she can put it on the market.

13. Mrs Eccleshall said that her mother wants to use the funds from the sale of the Property to fund her retirement.

Respondent's Position

14. Ms Scott -Telford said that she is a single mother and that she lives in the Property with her twelve year old son who attends the local secondary school.

15. Ms Scott-Telford said that she works part-time.

16. Ms Scott-Telford said that she feels it is time for her to move and that she is not opposed to the decree of eviction being granted.

The Law

Section 33 Housing (Scotland) Act 1988

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.

(2) The period of notice to be given under subsection (1)(d) above shall be—

(i) if the terms of the tenancy provide, in relation to such notice, for a period of more than two months, that period;

(ii) in any other case, two months.

(3) A notice under paragraph (d) of subsection (1) above may be served before, at or after the termination of the tenancy to which it relates.

(4) Where the First-tier Tribunal makes an order for possession of a house by virtue of subsection (1) above, any statutory assured tenancy which has arisen as at that finish shall end (without further notice) on the day on which the order takes effect.

(5) For the avoidance of doubt, sections 18 and 19 do not apply for the purpose of a landlord seeking to recover possession of the house under this section.

Discussion and Determination

- 17. The tribunal determined that the Applicant had properly served the notice to quit, that the Respondent had been given the appropriate period of notice and that the appropriate notice had been given to the local authority in terms of the Homelessness etc (Scotland) Act 2003.**
- 18. The tribunal determined that the tenancy had been brought to an end at the ish date by service of the notice to quit.**
- 19. The tribunal noted that, prior to the amendments to the 1988 Act, it would have no discretion and would have been required to grant the order of eviction. The tribunal does now have discretion and requires to consider reasonableness.**
- 20. The tribunal noted that neither party considered that she had additional evidence to put before it and that there was therefore no reason to arrange for an evidential Hearing to be arranged.**
- 21. The tribunal found both parties to be credible. They had each set out clearly their respective positions. The tribunal, in exercising its discretion, required to carry out a balancing act.**
- 22. The Applicant wants to recover the Property to provide her with funds for her retirement.**
- 23. The Respondent has lived in the Property for over thirteen years and it is home her and her son. The Respondent offered no opposition to the application for eviction.**

24. On balance, the tribunal determined that it was reasonable to grant the application and to make the order. In coming to its determination, the tribunal noted the particular circumstances of the Respondent but also took into consideration the desire of the Applicant to sell the Property to assist her retirement plans. The tribunal also noted that the Respondent was not opposed to the granting of the order.

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.

Martin McAllister

**Martin J. McAllister
Legal Member
15 October 2025**