



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/25/0905

Re: Property at 48 South Loch Park, Bathgate, EH48 2QZ (“the Property”)

Parties:

Mr Gordon Burns, 1 Cambridge Road, Mount Martha 3934, Victoria, Australia (“the Applicant”)

Mr Hassan Nyan, 48 South Loch Park, Bathgate, EH48 2QZ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant

Background

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. On 18th August 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 25th September 2025 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 8th September 2025.

3. On 20th August 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 20th August 2025.

Case Management Discussion

4. A CMD was held on 25th September 2025 at 2pm by teleconferencing. The Applicant was present represented himself. Ms Darlene Sharkey, the Applicant's wife and co owner of the Property, was present as moral support but took no part in the CMD. The Respondent was not present and was not represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
5. The Applicant said that he and his family are now settled in Australia. They moved there in 2020. They are in the process of becoming Australian citizens. He has recently bought a new home in Australia. The affordability of this new property depends on the Property at the centre of this application being sold. His new property needs work done on it and that will be financed by the sale of this property.
6. The Applicant said that he did have 6 properties in Scotland. All but one was sold as he and his wife wanted to keep one to return to if they wished to return to live in Scotland. Now they have decided to permanently live in Australia there is no reason to keep this property. In addition it is harder to instruct trades from Australia.
7. The Applicant said that there have been no issues with the Respondent as a tenant. He has been a good tenant. He believes that he lives in the Property with his wife and young child who is under 5 years old.
8. The Tribunal were satisfied that it was reasonable to grant an order for eviction.

Findings in Fact and reasons for decision

9. The parties entered into a Short Assured Tenancy from 23rd May 2016 to 23rd November 2016 which was then continued on a two month basis thereafter. An AT5 was signed by both parties on the same date as the lease. The rent payments of £575 are due on the twenty third day of each month.
10. The Applicant lives in Australia. He now does not intend to return to the UK to live. He has bought a new property in Australia. He requires to sell this property to fund his new property in Australia. He intends to sell the Property within three months of obtaining vacant possession.
11. There are no tenancy issues in terms of rent arrears or antisocial behaviour.
12. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given

this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted.

Decision

13. The Applicant is entitled to an Order of for recovery of 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.

Gabrielle Miller

Legal Member/Chair

Date 25th September 2025