



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 (“the 1988 Act”) and Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Tribunal Ref: FTS/HPC/EV/25/1028

Property Address: 14 Corbett Place, Aviemore, PH22 1NZ (the Property)

Mr Guy Johnson, Braeriach, Braeriach Road, Kinraig, PH21 1QA (the Applicant)

Harper Macleod LLP, The Old Station, Maisondieu Road, Elgin, IV30 1RH (the Applicant’s Representative)

Mr Jamie Gordon, 14 Corbett Place, Aviemore, PH22 1NZ (the Respondent)

Tribunal Members:

Ms. Susanne L M Tanner Q.C. (Legal Member)

Miss Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”):

(i) was satisfied in terms of Section 33 of the 1988 Act that the short assured tenancy for the Property has reached its end; tacit relocation is not operating; no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and that the Applicant has given to the Respondent two months’ notice stating that they require possession of the house; and that it was reasonable to make an order for possession in the circumstances of the case; and

(ii) made an order for possession in terms of Section 33 of the 1988 Act.

The decision of the tribunal was unanimous.

Statement of Reasons

1. The Applicant's Representative made an application to the tribunal on 10 March 2025, in terms of Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules").
2. The Applicant seeks the Respondent's eviction from the Property under Section 33 of the 1988 Act (possession on termination of a short assured tenancy).
3. The Applicant's Representative lodged supporting evidence for the application:
 - 3.1. Copy of a short assured tenancy agreement dated 21 May 2014;
 - 3.2. Copy of an AT5 notice;
 - 3.3. Copy emails between Jacqueline Gordon and Harper Macleod, dated 26 February 2025 and 3 March 2025;
 - 3.4. Statement of rent arrears
 - 3.5. Copy Notice to Quit and Section 33 Notice with proof of email service dated 15 November 2024;
 - 3.6. Proof of delivery to J Gordon dated 18 November 2024;
 - 3.7. Copy Section 11 Notice to Highland local authority with proof of sending by email on 10 March 2025.
4. The tribunal's administration obtained the title sheet to the property dated 11 March 2025, which shows that the Applicant is the registered proprietor of the Property.
5. The tribunal's administration confirmed pending registration details for the Property with Landlord Registration Scotland which show an application by the Applicant with Highland local authority.
6. On , the Application was accepted for determination and a Case Management Discussion ("CMD") was fixed by teleconference on 16 September 2025 at 1400h.
7. On 5 August 2025, parties were notified by letter of the date, time and place of the CMD and told that they were required to attend. Parties were also advised in the same letter that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the Application, which may involve making or refusing an eviction order. If parties do not attend the CMD this will not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondent was required to submit written representations in response to the Application to the tribunal's offices by 26 August 2025.

8. The Application paperwork and notification of the date, time and place of the CMD was served on the Respondent by Sheriff Officers on 6 August 2025.

Case Management Discussion (“CMD”): 16 September 2025 at 1400 by teleconference

9. Mrs de Carlo, solicitor, from the Applicant’s Representative attended; together with the Applicant.
10. The Respondent did not attend the CMD. The tribunal was satisfied that the requirements of Rule 24(1) of the 2017 Rules regarding the giving of notice of a hearing had been duly complied with, on the basis of the Sheriff Officers’ certificate of service on 6 August 2025; and proceeded with the Application on the basis of all the material before it and the representations of the party present, in terms of Rule 29 of the 2017 Rules.

Applicant’s Representative’s submissions

11. The Applicant’s Representative invited the tribunal to make an order for possession. She adopted the written submissions in the paper apart to the Application, which are summarised below:

- 11.1. The Applicant is the landlord of the Property and entered into a short assured tenancy agreement with the Respondent dated 21 May 2014, which commenced on the same date. The tenancy agreement is Inventory Document 1. Prior to the tenancy agreement the Applicant issued an AT5 Form to the Respondent dated 12 May 2014, which is Inventory Document 2. The original tenancy term was six months. Thereafter the tenancy continued on a monthly basis in terms of Clause 3 of the Tenancy agreement.

- 11.2. The Tenancy agreement was entered into with the Respondent and his now ex wife, Jacqueline Gordon. The Respondent now lives alone in the property. Ms Gordon vacated the Property on or around 28 September 2018 and in doing so abandoned and thereby renounced her interest as a tenant. The Respondent is the sole and remaining tenant. A copy email from Ms Gordon to the Applicant’s Representative is in the Inventory.

- 11.3. The contractual tenancy was terminated on 21 January 2025 following service of a Notice to Quit by the Applicant’s Representative on 15 November 2024. Tacit relocation is not operating and there is no other contractual tenancy operating between the parties in respect of the Property. The Applicant served notice under Section 33 of the 1988 Act on the Respondents, dated 15

November 2024. The Notice to Quit and Section 33 Notice were served on the Respondent by recorded delivery on 15 November 2024 and were received at the Property on 18 November 2024 and signed for by 'J Gordon'.

11.4. The period of notice as detailed in the Notice to Quit has now expired. The tenancy was terminated as at 21 January 2025.

11.5. The Applicant's Representative sent a Section 11 Notice to Highland Council by email.

12. Mrs de Carlo submitted that the statutory test for Section 33 has been satisfied.

13. Mrs de Carlo then made submissions in relation to reasonableness, adopting her written submissions in the paper apart, paragraph 8, which she supplemented with oral submissions, summarised as follows:

13.1. The Property is not an adapted property.

13.2. There are rent arrears relating to the tenancy. At this time the Applicant has not raised proceedings to recover the arrears, without prejudice to their right to do so. She has not lodged an updated statement of arrears. No further payment of rent has been received since March 2025. As at today's date, the last rent was due on 1 September 2025 and the total arrears outstanding are £5250.00. There has been no correspondence between the parties about the rent arrears. For now the focus has been on recovering the property. No pre litigation letters have been sent.

14. Mr Johnson said that they went round to have a look at the Property a couple of months ago and had a look through the letterbox and the Respondent's belongings were still there. Mr Johnson said that Mr Gordon is not very responsive. The only way to get in touch in the past was to go round and wait for him as he does not respond to emails or messages. After the Application was made, the Applicant went to the Property in early Spring and spoke to the Respondent at the Property. It was amicable. The Respondent said that he was finding it hard to find another property. The Respondent told the Applicant that he was advised not to voluntarily leave the Property and not to pay his rent.

15. Mrs de Carlo stated that this council is actively advising tenants to stay in situ and not leave until the eviction order is granted due to the housing situation. Frequently she is seeing that the Respondent will simply not engage to allow the eviction order to pass. Mrs de Carlo was unaware if that was the position in this case.

16. Mr Johnson stated that this is a two bedroomed flat. The Respondent lives there on his own. He was originally living with his wife and they unfortunately split up.

The Applicant had a good landlord/tenant relationship with the wife. Unfortunately the relationship with the Respondent has not been as good. The Respondent has a child of school age, around aged 10 or 12 but the child only resides with his mother and does not reside at the Property.

17. Mr Johnson does not think that the Respondent has any mental health issues. He thinks that the Respondent is in his late 30s, early 40s.

18. Mr Johnson said that it remains the case as stated in the Application that he needs the Property back for his son and his partner to live in.

19. The tribunal makes the following findings-in-fact:

19.1. The Applicant is the registered proprietor of the Property.

19.2. There was a short assured tenancy between the parties for the initial period from 21 May 2014 for a period of 6 months.

19.3. Thereafter the tenancy continued by tacit relocation on a monthly basis and relocated until 21 January 2025.

19.4. The short assured tenancy reached its end on 21 January 2025, by service on behalf of the Applicant on the Respondent, on 15 November 2024, of a Notice to Quit, notifying the Respondent that the tenancy would reach its termination date as at 21 January 2025.

19.5. Tacit relocation is no longer operating;

19.6. No further contractual tenancy is for the time being in existence.

19.7. A Section 33 notice was served on behalf of the Applicant on the Respondent on 15 November 2024, notifying the Respondent that the Applicant required vacant possession as at 21 January 2025.

19.8. The Applicant has given to the Respondent at least two months' notice stating that he requires possession of the Property.

19.9. The Application to the tribunal was made on 10 March 2025.

19.10. The Respondent has lived in the Property since May 2014.

- 19.11. The Respondent has lived on his own for some years since his marriage breakdown in or around September 2018, at which time his now ex wife moved out of the Property.
- 19.12. The Property is a two bedroomed flat.
- 19.13. There Property is not an adapted property.
- 19.14. There are no children residing in the Property.
- 19.15. The Respondent has rent arrears of £5,250 as at 16 September 2025.
- 19.16. The Applicant wishers to use the Property for his son and partner to live in as they both require alternative accommodation to where they are currently residing.

Discussion

20. The tribunal is satisfied that the requirements of Section 33 of the 1988 Act are met.
21. The tribunal is satisfied that in all the circumstances and on the basis of the findings of fact, it is reasonable and to make an order for possession of the Property.
22. The tribunal made an order for 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.

Ms .Susanne L M Tanner K.C.
Legal Member/Chair

16 September 2025

