



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 (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/1383

Re: Property at 20 Granton Gardens, Edinburgh, EH5 1AX (“the Property”)

Parties:

Mrs Sheena Macleod, Brochville, Quatre Bras, Lybster, KW3 6BN (“the Applicant”)

Miss Frances Gordon, 20 Granton Gardens, Edinburgh, EH5 1AX (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted.

Background

1. The application submitted on 2 April 2025 sought an eviction order under Rule 66 on the basis that the Short Assured Tenancy had been brought to an end by service of the relevant notices. Supporting documentation was submitted, including a copy of the tenancy agreement, AT5, Notice to Quit, Section 33 Notice and Section 11 Notice to the local authority. The Short Assured Tenancy had commenced on 19 April 2017.
2. The application was accepted by the Tribunal by Notice of Acceptance dated 17 April 2025 and a CMD was fixed to take place on 8 October 2025 at 2pm.

3. Notification of the application and details of the date and other arrangements for the CMD were served personally on the Respondent by Sheriff Officer on 22 August 2025. She was invited to lodge any written representations in respect of the application, but none were lodged.

Case Management Discussion

4. The CMD took place by telephone conference call on 8 October 2025, commencing at 2pm. In attendance was Ms Heather McIntyre of Ennova Ltd, the Applicant's representative. The Tribunal delayed the commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but she did not do so.
5. Following introductions and introductory comments by the Legal Member, Ms McIntyre was asked if there had been any recent contact from the Respondent. Ms McIntyre confirmed that there has been contact with the Applicant's letting agents and their understanding is that she is not against the application but has been unable to move out yet and has not yet secured accommodation through the local authority. She is understood to have made contact with the local authority and has a caseworker assigned. However, it is understood that she will not be progressed for housing until an eviction order is granted against her. If she had moved out voluntarily in advance of this, she risked being assessed as intentionally homeless.
6. Ms McIntyre referred to the tenancy background and the formal notices served on the Respondent to bring the tenancy to an end, being the Notice to Quit and Section 33 Notice. These notices were served on 17 December 2024 and the notice period expired on 19 February 2025. However, the Respondent remains in the Property. The Applicant is looking to sell the Property after it is recovered as she is almost 70 years old and not in the best of health. This is the only Property the Applicant lets out and, as she lives in Caithness, it is difficult for her to visit the Property to attend to things and it has become too troublesome for her to continue as a landlord. Ms McIntyre is unaware of any rent arrears or other issues with the tenancy. The Respondent is understood to be 62 years old and to have a 20 year-old son. It is not known if he is currently working or living with the Respondent, nor whether the Respondent is in employment. Ms McIntyre had nothing further to state as regards the reasonableness test, other than the circumstances of the Applicant, as already narrated. She had no instructions on the issue of the Tribunal exercising their discretion to add an extension to the usual eviction date which would apply and did not wish to say anything either for or against an extension.
7. The Tribunal Members adjourned to consider the application in private and, on re-convening, confirmed that the Tribunal was persuaded to grant the eviction order today, but subject to the addition of an extra month onto the timeframe for eviction, to allow the Respondent a slightly longer period of time to find alternative housing through the local authority. Ms McIntyre was thanked for her attendance at the CMD.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Short Assured Tenancy which had commenced on 19 April 2017.
3. The Applicant ended the contractual tenancy by serving on the Respondent a Notice to Quit and Section 33 Notice dated 16 December 2024 and served by Sheriff Officer on 17 December 2024 on the Respondent.
4. The end of the notice period specified in both notices was 19 February 2025, an ish date in terms of the lease. Both notices were in the correct form, provided sufficient notice and were served validly on the Respondent.
5. The Respondent remained in possession of the Property following expiry of the notice period.
6. This application was lodged with the Tribunal on 2 April 2025, following expiry of the notice period.
7. The Applicant wishes to recover possession of the Property in order to sell it as she no longer wishes to continue as a landlord, due to her age, health conditions and the distance of the Property from where she lives.
8. The Respondent did not oppose the application.
9. The Applicant was neutral on the matter of the Tribunal considering an extension on the execution date of the eviction to allow the Respondent more time to seek to secure alternative accomodation.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation and the oral information and submissions provided on behalf of the Applicant at the CMD.
2. The Tribunal was satisfied that the pre-action requirements including the service of the Notice to Quit and Section 33 Notice in terms of the 1988 Act had been properly and timeously carried out by the Applicant prior to the lodging of the Tribunal application.
3. Section 33(1) of the Act states that an order for possession shall be granted by the Tribunal if satisfied that the short assured tenancy has reached its finish; that tacit relocation is not operating; that the landlord has given to the tenant notice stating that he requires possession of the house; and that it is reasonable to make an order for possession. The Tribunal was satisfied that all requirements of Section 33(1) had been met.

4. As to reasonableness, the Tribunal considered the background circumstances to the Application, the personal circumstances of the Applicant and the details provided by the Applicant's agent regarding the personal circumstances of the Respondent and the information she had provided to the Applicant's letting agent. However, the Respondent had not entered into the Tribunal process, which she was aware of, and the Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on behalf of the Respondent. Accordingly, the Tribunal determined, on balance, that it was reasonable for an order for recovery of possession of the Property to be granted at this stage and that there was no need for an Evidential Hearing.
5. Given the understanding that the Respondent was seeking alternative accommodation through the local authority, her age and circumstances as far as known to the Tribunal and the fact that there did not appear to be any great urgency on the part of the Applicant, rent arrears or similar, nor opposition to an extension, the Tribunal determined that it was reasonable for it to exercise its discretion and delay execution of the eviction order beyond the normal timescale which would apply, for the period of one month. This would allow the Respondent some additional time to work with the local authority to secure alternative accommodation, whilst giving everyone a clear date to work towards. It was hoped that, in the event that the Respondent is able to move out of the Property sooner, that she would liaise with the Applicant's agents in this regard. The date to be stated in the eviction order as the earliest date for execution of the eviction would be **8 December 2025**.
6. 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.

Nicola Weir

Legal Member/Chair

Date: 08/10/2025