



**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/25/1640

Re: Property at 18 Howgate, Dumfries, DG2 7AE (“the Property”)

Parties:

Stuart Skimming, 1 Newton Drive, Dumfries, DG2 0BF (“the Applicant”)

Mary Brown, 18 Howgate, Dumfries, DG2 7AE (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application by the Applicant for an order for possession on termination of a short assured tenancy in terms of rule 66 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”). The tenancy in question was a Short Assured Tenancy of the Property by the Applicant to the Respondent commencing on 1 November 2011.
2. The application was dated 16 April 2025 and lodged with the Tribunal on that date. The application relied upon a Notice to Quit and notice in terms of section 33 of the *Housing (Scotland) Act 1988*, both dated 20 December 2024, providing the Respondent with notice (respectively) that the Applicant sought to terminate the Short Assured Tenancy and have the Respondent vacate, each by 1 March 2025. The copies lodged with the application both bore to be signed as received by the Respondent on 20 December 2024 but no evidence of the mode of service of the said notices was included with the application papers.

3. Evidence of a section 11 notice dated 1 April 2025 in terms of the *Homelessness Etc. (Scotland) Act 2003* served upon Dumfries & Galloway Council was provided with the application.

The Hearing

4. On 10 October 2025 at 14:00, at CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting remotely by telephone conference call, we were addressed by Cameron McCartney, solicitor, Brazenall & Orr LLP for the Applicant. There was no appearance for the Respondent.
5. We sought confirmation from the Tribunal's clerk as to any contact from or on behalf of the Respondent but there had been none. The Applicant's agent confirmed that there had been no contact with the Respondent recently, though there had been contact by her with the Applicant personally earlier (ending around December 2024, after the Respondent provided the copies of the Notice to Quit and the section 33 notice signed with her acceptance of receipt). Further, a social worker from Dumfries & Galloway Council's complex needs team had twice been in touch with the Applicant's agent's office since service of the notices. The first time was to confirm that the Respondent had visited them with the notices and the second when the social worker raised an issue with the content of the section 33 notice (which we will discuss below). In all the circumstances, and having not commenced the CMD until 14:05, we were satisfied to hear the application in the absence of the Respondent. (In any event, neither the Respondent nor anyone on her behalf sought to dial into the CMD call at any time before its conclusion.)
6. The Applicant's solicitor confirmed the application was still insisted upon. We sought further details on the service of the notices, in the absence of any documentation showing the mode of service. The Applicant's agent stated that they were served by recorded delivery on 20 December 2024 but, as Royal Mail's website had not listed confirmation of delivery, he had made a decision not to lodge any information at all (including not lodging the postal receipts). He was however satisfied that the notices had been received by the Respondent both because of her social worker's communications about them, and because the Respondent had signed to acknowledge receipt of the notices. (We do note however that the date of 20 December 2024 in the acknowledgement dockets suggest either that the Respondent was signing a separate set of the notices that had been hand-delivered to her, or that she back-dated her signature on the postal copies. Nothing appears to turn on this point.)
7. In regard to the notices, the Respondent had not disputed them to the Applicant or the Tribunal, but the Applicant's agent had received an email of 7 February 2025 from the Respondent's social worker querying the validity of the section 33 notice for lacking details of "service organisations" who could provide legal advice. The Applicant's agent had responded to dispute this as a valid concern.
8. Between the application papers and the agent's oral submissions we noted the following points relevant to the question of reasonableness:

- a. The Property is a detached property but the Applicant's agent did not know the number of rooms.
- b. The Respondent is believed to live there alone.
- c. The Respondent is in receipt of housing benefit, and all rent is paid up to date. No other information on her finances was known by the agent.
- d. Apart from the fact that the Respondent has a social worker from a "complex needs team", the Applicant's agent had no other information about the Respondent's health or circumstances.
- e. The Applicant's agent did not know if the Respondent had sought to be rehoused into social housing and/or had sought to obtain another private tenancy.
- f. The Applicant's agent had not been informed of any special adaptation of the Property for the Respondent's use.
- g. The Applicant's agent had not been informed of the Property being especially suitable for the Respondent for any reason.
- h. The Applicant's agent believed that the Applicant may have at least one other rental property but stressed that this was a recollection from a conversation with a colleague and may not be accurate.
- i. The Applicant sought eviction at this time so as to move into the Property. The Applicant's agent lacked any other information as to why the Applicant sought to move in, or why he sought to move now.
- j. The Applicant has a significant medical condition at its advanced stage and is currently disabled and not in employment. (We were provided the details of the condition but do not see it necessary to repeat in this Decision.)

9. No order for expenses was sought.

Findings in Fact

10. By written lease dated 24 October 2011, the Applicant let the Property to the Respondent by lease from 1 November 2011 until 1 May 2012 to thereafter "run from month to month" ("the Tenancy").
11. The Tenancy was a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988 further to the Landlord issuing the Respondent with a notice under section 32 of the 1988 Act (an "AT5") on 24 October 2011 prior to commencement of the Tenancy.
12. On 20 December 2024, the Applicant's agent drafted a Notice to Quit in correct form addressed to the Respondent, giving the Respondent notice that the Applicant wished her to quit the Property by 1 March 2025.
13. On 20 December 2024, the Applicant's agent drafted a Section 33 Notice under the 1988 Act addressed to the Respondent, giving the Respondent notice that the Applicant required possession of the Property by 1 March 2025.
14. 1 March 2025 is an ish date of the Tenancy.
15. On 20 December 2024, the Applicant's agent competently served each of the notices upon the Respondent by recorded delivery. The Respondent was thus

provided with sufficient notice of the Applicant's intention that the Tenancy was to terminate on 1 March 2025.

16. On or around 16 April 2025, the notice period under the notices having expired, the Applicant raised proceedings for an order for possession with the Tribunal, under rule 66, the grounds of which being: that the Tenancy had reached its end; that tacit relocation was not operating; that no further contractual tenancy was in existence; that notice had been provided that the Applicant required possession of the Property all in terms of section 33 of the 1988 Act; and that it was reasonable to make the order.
17. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Dumfries & Galloway Council on or around 1 April 2025 on the Applicant's behalf.
18. On 3 September 2025, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 20 October 2025.
19. The Applicant seeks to move into the Property.
20. The Respondent lives alone at the Property.

Reasons for Decision

21. The application was in terms of rule 66, being an order for possession upon termination of a short assured tenancy. We were satisfied on the basis of the application and supporting papers that the necessary notices had been served with sufficient notice, and thus the requirements of the 1988 Act had been complied with. In any event, the Respondent tendered no dispute as to the validity of the notices. Her social worker's query about the terms of the section 33 notice was not valid. Such a notice does not require to include any wording about sources of advice available to the tenant. Further, the standard wording about sources of advice was present on the Notice to Quit served on the Respondent.
22. We require, in terms of the 1988 Act as currently amended, to consider "that it is reasonable to make an order for possession". On this, the Respondent again offered no opposition. The Applicant's agent, however, offered little in support except to say that the Applicant sought to move in (but without any reasons why), that the Applicant had a significant medical condition (but the agent did not seek to draw a connection between the eviction and the Applicant's health, and it may or may not be connected), and to stress that the Applicant entered into the Tenancy on the basis that he had an absolute right to terminate under section 33 and that he now wished to do so. We are obliged to the Applicant's agent for his candour but there was no strong or detailed argument put to us on reasonableness. We do not require to consider defences that are not made however. The Applicant has made out a very slim basis as to why it is reasonable to evict (so that he may move into his own Property) and the Respondent, despite being

aware of the application and making her social worker aware of it, offers no opposition on reasonableness.

23. In all the circumstances, we were satisfied that the Applicant's reason for seeking eviction was reasonable and we were thus satisfied to grant the application. The Rules allow at rule 17(4) for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time in normal terms.

Decision

24. In all the circumstances, we make the decision to grant an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

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.

J Conn

20 October 2025

Legal Member/Chair

Date