



**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”)**

Chamber Ref: FTS/HPC/EV/24/3600

Re: Property at 37 Caledonian Road, Stevenston, KA20 3LG (“the Property”)

Parties:

Mr Jonathan Hall, 44a Arootally Road, Armagh, Northern Ireland BT60 4NB (“the Applicant”)

Deandra/Daniel Challenor/MacCormick, 37 Caledonian Road, Stevenston, KA20 3LG (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. An application was received from the Applicant's solicitor on 6 August 2024 under rule 66 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ('the 2017 rules') seeking recovery of possession of the property under a short assured tenancy by the Applicant against the Respondent.
2. Attached to the application form were:
 - (i) Copy short-assured tenancy agreement between the parties which commenced on 14 January 2014, together with form AT5 signed by the Respondent on the same date.

- (ii) Copy notice required under section 33 of the 1988 Act ('the section 33 notice') dated 14 February 2024 addressed to the Respondent.
 - (iii) Copy Notice to Quit dated 14 February 2024 addressed to the Respondent, requiring her to remove from the property on or before 14 May 2024.
 - (iv) Certificate of service by sheriff officer relating to the notice to quit and section 33 notice dated 16 February 2024.
 - (v) Copy notice under section 11 of the Homelessness etc (Scotland) Act 2003 addressed to North Ayrshire Council, together with proof of sending by recorded delivery on 6 August 2024.
3. Following a request from the Tribunal administration, further information was received from the Applicant's solicitor on 24 September 2024.
4. The application was accepted on 23 October 2024.

The case management discussions

5. A case management discussion (CMD) was held by teleconference call on 29 April 2025. Miss Millie Archibald of Wallace Hodge and Co Solicitors represented the Applicant. The Respondent was not present or represented. The Tribunal was satisfied that the Respondent had been given reasonable notice of the date and time of the CMD and proceeded with the CMD in her absence.
6. The Tribunal decided to adjourn the CMD, because it did not consider that there was sufficient information before it to allow it to make a decision on whether it was reasonable to grant an eviction order in all the circumstances. It issued a direction to the parties, requiring them to provide further information.
7. The adjourned CMD was held by teleconference call on 16 July 2025. Mr Stephen Ferry of Wallace Hodge and Co Solicitors represented the Applicant. The Respondent was not present or represented on the teleconference call.
8. The Tribunal had been made aware shortly before the start of the CMD that a phone call had been received that morning from the Respondent. The Respondent had advised that she had been called away to a family emergency, and had to travel to England. She would not therefore be able to attend the CMD. The Tribunal also noted that the response from the Applicant's solicitor had not addressed all of the points set out in its direction of 29 April 2025.
9. The Tribunal decided that in the circumstances it would not be in the interests of justice to proceed with the CMD in the absence of the Respondent. It therefore

decided to fix an evidential hearing on the application, and issued a further direction to the parties seeking further information in advance of the hearing.

10. A response to the direction was received from the Applicant's solicitor on 8 October 2025. No response was received from the Respondent in advance of the hearing.

The hearing

11. A hearing was held by teleconference call on 22 October 2025. The Applicant was present on the call and was represented by Miss Millie Archibald, who was accompanied by Mr Ferry. The Applicant also called Mrs Paula Sinclair of Lomond Property, the Applicant's letting agent, as a witness.
12. The Respondent was not present or represented on the teleconference call. The Tribunal delayed the start of the hearing by 10 minutes, in case the Respondent had been detained. She did not join the teleconference call, however, and no telephone calls, messages or emails had been received from her.
13. The Tribunal was satisfied that the requirements of rule 24(1) of the 2017 rules regarding the giving of reasonable notice of the date and time of a hearing had been duly complied with. It therefore proceeded with the hearing in the absence of the Respondent, in terms of rule 29 of the 2017 rules.

The Applicant's submissions

14. Miss Archibald told the Tribunal that the Applicant intended to sell the property once the Respondent had vacated it. The rent payments made by the Respondent had been inconsistent since the start of the tenancy, and no rent had been paid at all since 18 November 2024. As at 14 September 2025, the rent arrears owed totalled £4626.52, as shown in the updated rent statement submitted to the Tribunal. This was the highest amount of arrears owed by the Respondent during her tenancy. This was having a significant financial impact on the Applicant and his wife, who is the co-owner of the property. His wife is not currently in employment and they have five children.
15. There is an interest only mortgage for £58000 outstanding on the property. The Applicant and his wife are currently paying out more than the amount of the rent each month towards the mortgage. They also have other monthly costs in relation to the property, with no rental income to offset against these.
16. The Applicant owns two other rental properties, and does not consider himself to be a professional landlord. This property is the only one which he currently plans to sell. He has instructed Lomond Property to market the property as soon as it is vacant. Mr Hall told the Tribunal that he wished to sell this particular property due

to the longstanding rent arrears and the ongoing costs involved in keeping the property. It was having a serious impact on his wife and family. The tenants in the other two rental properties had been paying their rent.

17. With regard to the Respondent's circumstances, Miss Archibald had previously told the Tribunal that she lives in the property alone. It was unclear whether the Respondent was in employment, although she had previously been a nursing student, Miss Archibald said that Lomond Property had only become aware that the Respondent was using a wheelchair during a property inspection on 23 April 2024. The Applicant had no further information about this. Miss Archibald confirmed, however, that no adaptations had either been made to the property, or requested by the Respondent.
18. The Respondent had been in receipt of housing benefit, which was paid direct to Lomond Property, but had stopped in November 2024. This coincided with the Respondent's benefits being consolidated with the introduction of Universal Credit. Moreover, Lomond Property had made efforts to apply to the DWP for direct payment and this was declined, which indicated that the Respondent may be on some other additional benefits such as PIP or Disability Benefit. A significant payment of £1482.89 had been made on 15 August 2024, which the Applicant believed had been received via a tenant covid grant.
19. Mrs Sinclair told the Tribunal that Lomond Property had tried hard over the years to keep in touch with the Respondent regarding the arrears, and to try to resolve matters.
20. the Respondent had not been in touch with Lomond Property since 28 May 2024. As demonstrated by the email chain which had been submitted, the Respondent had stated at that time that she had been in contact with Shelter Scotland. She said that she had been advised to wait for the matter to go to the Tribunal because she had not secured alternative accommodation. The only contact with the Respondent since then had been during a property inspection by Mrs Sinclair's colleague on 23 April 2025 at that time. The Respondent had informed her colleague during that visit that she was waiting to receive an eviction notice to allow her to receive assistance from the council.

Findings in fact

21. The Tribunal made the following findings in fact:
 - i. The Applicant is the registered landlord for the property.
 - ii. The Applicant and his wife, Mrs Wendy Hall, are joint owners of the property. Mrs Hall confirmed in a letter of 30 October 2024 to the Tribunal that she was

aware of and had consented to the tenancy agreement between the parties, and also consented to the present application by the Applicant.

- iii. There is a validly constituted short assured tenancy in place between the parties. The Respondent was named in the tenancy agreement as Daniel MacCormick, but is now known as Deandra Challenor. The tenancy commenced on 14 January 2014 and was initially for a period of 6 months until 14 January 2015. It had then continued on a month to month basis by tacit relocation.
- iv. The rent payable under the tenancy is £280 per month. It has remained at this level since the tenancy began.
- v. The Notice to Quit and the section 33 notice dated 14 February 2024 stated that the Applicant required vacant possession of the property on or before 14 May 2024. These provided more than two months' notice of vacant possession.
- vi. The notices dated 14 February 2024 were validly served on the Respondent by sheriff officer on 16 February 2024.
- vii. The tenancy reached its end on 14 May 2024.
- viii. As at 14 September 2025, the Respondent owed the Applicant rent arrears totalling £4626.52.
- ix. The Respondent had previously been in receipt of housing benefit, but had made no rental payments since 18 November 2024.
- x. The Respondent had previously sought advice from a welfare rights officer at North Ayrshire Council regarding her rent arrears. She had also received advice from Shelter Scotland.
- xi. The Applicant intends to sell the property once it is vacant.

Reasons for decision

22. In making its decision, the Tribunal carefully considered all of the evidence before it as at the date of the hearing. This included all of the written evidence which the Applicant had submitted and the oral submissions of the Applicant, Miss Archibald and Mrs Sinclair at the hearing. In doing so, the Tribunal applied the civil burden of proof, which is the balance of probabilities.

23. The Tribunal noted that section 33 (1) of the 1988 Act as amended states:

(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.

24. The Tribunal was satisfied that the short-assured tenancy had reached its ish; that tacit relocation was not operating; and that the Notice to Quit and section 33 notice both dated 14 February 2024 had been validly served on the Respondent, for the reasons set out above. This had not been disputed by the Respondent.

Reasonableness

25. The Tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.

26. The Tribunal noted that at the start of the short assured tenancy, given the rules that were in place at that time, the Applicant might have expected to be granted an eviction order automatically, were the Tribunal satisfied that the correct rules had been followed in terms of creating the tenancy and serving the various notices correctly.

27. The Notice to Quit had been served on the Respondent more than a year and eight months ago. She had therefore been aware for some time that the Applicant sought to repossess the property.

28. The Tribunal took into account the stress and financial impact which have been caused to the Applicant and his family as a result of the Respondent's ongoing rent arrears.

29. The Tribunal was aware that the Respondent had been living in the property for more than 11 years, and it appeared that she may use a wheelchair. The Respondent has been consistently in rent arrears since 2017. The level of arrears is significant given the level of rent payable. While it appeared that there may have been issues with the Respondent's housing benefit in the past, she had previously

received advice from both a welfare rights and money adviser and Shelter Scotland.

30. The Tribunal took into account the fact that the Respondent had not opposed the application, and appeared to be seeking an eviction order in order to assist her with securing council accommodation.

31. Having carefully considered all of the evidence and all of the circumstances of the case as set out above, the Tribunal considered that on balance, it was reasonable to grant an eviction order. It gave particular weight to the fact that the Respondent owed significant rent arrears and had not opposed the application.

Decision

The Tribunal granted an order in favour of the Applicant against the Respondent for recovery of possession of the property.

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.

Sarah O'Neill

22 October 2025

Legal Member/Chair

Date