



**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/24/4522

Re: Property at 46 Doon Avenue, Dunbar, EH42 1DJ (“the Property”)

Parties:

Ms Nadine Lowrey, 69 Wallace Crescent, Wallyford, EH21 8DD (“the Applicant”)

Ms Kirsty Crowe, 46 Doon Avenue, Dunbar, EH42 1DJ (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”) are met in this case.

The Tribunal therefore made an eviction order, with execution of the order suspended until 12 January 2026.

Background

- 1 This is an application for an eviction order under Rule 66 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 33 of the 1988 Act. The Applicant sought the order on the basis that the short assured tenancy between the parties had been terminated.
- 2 The application was referred to a Case Management Discussion (“CMD”) to take place by teleconference on 23 April 2025. Notification of the CMD was given to the parties in accordance with Rule 17(2) of the Rules. Said notification was served upon the Respondent by sheriff officers on 3 March 2025.

- 3 Both parties were invited to make written representations in advance of the CMD no later than 20 March 2025. The Tribunal received no written representations from either party.

The CMD

- 4 The CMD took place on 23 April 2025 by teleconference. The Applicant was represented by Ms Abby Norman of Umega Lettings. The Respondent joined the call.
- 5 The Tribunal explained the purpose of the CMD and asked the parties for their submissions on the application. For the avoidance of doubt, the following is a summary of those submissions relevant to the Tribunal's determination of the application and does not constitute a verbatim account of the discussion.
- 6 Ms Norman confirmed that the Applicant was seeking an eviction order as she wished to sell the property. The Applicant had been unable to cope with the increase in mortgage rates and could not continue her buy to let mortgage. In response to questions from the Tribunal, Ms Norman was unable to comment on whether the recent decrease in interest rates had impacted the Applicant. Her instructions were that the Applicant's stance on selling the property remained. She did not have any information regarding the Applicant's personal circumstances, other than the Applicant was in full time employment. She could not comment on the Applicant's financial position. She explained that Umega Lettings had taken over management of the property from the previous letting agent.
- 7 Ms Crowe explained that she resided in the property with her 13 year old daughter. She was evidently stressed by the situation regarding her tenancy. She had been seeking alternative accommodation but private rents in the area were unaffordable. Ms Crowe confirmed that she was employed in the local area, and her daughter attended Dunbar High School. She was very upset by the situation but understood the Applicant's position. Ms Crowe explained that she had gone to the local authority as soon as she received the notice to quit, however they had advised her to stay until she found somewhere else. They couldn't help her. If an eviction order was granted they would provide her with temporary accommodation. She had been applying for housing with local social housing associations but had so far been unsuccessful.
- 8 Having heard from the parties the Tribunal decided that the application must proceed to a full evidential hearing. The Tribunal required to assess the reasonableness of making an eviction order and considered it was unable to do so on the information before it at the CMD.
- 9 A Direction was issued to the parties following the hearing requiring them to produce any additional documentary evidence and details of witnesses no later than fourteen days prior to the hearing. On 22 September 2025 the Tribunal received a response to the Direction from the Applicant's representative. The Tribunal received no response to the Direction from the Respondent.

- 10 The hearing was scheduled to take place on 22 October 2025 by videoconference. The Tribunal gave notice to the parties in accordance with Rule 24(1) of the Rules.

The hearing

- 11 The hearing took place on 22 October 2025 by videoconference. The Applicant was present and accompanied by Ms Norman as her representative. The Respondent did not join the webinar. The Tribunal delayed the start time of the hearing for a short period to give her the opportunity to attend.
- 12 The Tribunal had the following documents before it:-
- (i) Application form dated 30 September 2024;
 - (ii) Title Sheet ELN5254 confirming the Applicant as the registered owner of the property;
 - (iii) Proof of the Applicant's landlord registration in the form of an excerpt from the online landlord register;
 - (iv) Short Assured Tenancy agreement and Form AT5, both dated 28 November 2014;
 - (v) Notice to quit and notice under section 33(1)(d) of the 1988 Act both dated 15 June 2024 together with proof of service on the Respondent by recorded delivery mail;
 - (vi) Section 11 notice to East Lothian Council together with proof of delivery by email.
 - (vii) The Applicants direction response which included an overview of the financial year 24/25 for the let property, bank statements, evidence of child maintenance payments, extract decree of divorce, proof of the Applicant's son's disability, mortgage statements and associated correspondence from the lenders, and evidence of current rates for buy to let mortgages.
- 13 The Tribunal noted the Respondent's absence. Ms Norman advised that neither she nor the Applicant had spoken to the Respondent following the CMD. Ms Norman had however been contacted by the Citizens Advice Bureau on behalf of the Respondent. They wished to negotiate the Respondent's departure from the property without the use of sheriff officers. The Applicant had agreed to discuss this further with CAB once she knew the hearing outcome. The CAB had been looking to secure additional time for the Respondent to vacate the property. The Applicant confirmed that she would have no issue with the eviction date being delayed into early January. The Applicant resisted any further delay in the proceedings due to the impact this would have on her.
- 14 The Tribunal adjourned the hearing to deliberate before resuming the hearing and confirming its decision.

Findings in fact

- 15 The Applicant is the owner and landlord of the property, and the Respondent is the tenant, of the property in terms of a short assured tenancy agreement.
- 16 The Applicant has given the tenant a notice to quit terminating the tenancy at the ish date. Tacit relocation is no longer operating.
- 17 The Applicant has given the Respondent notice under section 33(1)(d) of the Housing (Scotland) Act 1988 that she requires possession of the property.
- 18 The Applicant requires to sell the property. The Applicant has a fixed rate mortgage over the property. The mortgage term will expire in January 2026. The Applicant will face a significant increase in her monthly mortgage payments. The property is no longer financially viable as a result.
- 19 The Applicant has other financial commitments, including a joint mortgage with her mother. The Applicant also has a mortgage for her own house.
- 20 The Applicant is a sole parent with two children. The Applicant's son is disabled and the Applicant will require to adapt her home to meet his needs.
- 21 The Applicant's income has significantly decreased following her divorce from her husband.
- 22 The Respondent resides in the property with her 13 year old daughter. The Respondent is employed in the local area and the Respondent's daughter attends the local school.
- 23 The Respondent has been searching for alternative accommodation. The Respondent cannot afford another private tenancy in the area. The Respondent has spoken with the local authority regarding rehousing. The local authority have advised the Respondent that they cannot assist her until she has an eviction order.

Reasons for decision

- 24 The Tribunal gave careful consideration as to whether it could proceed to a decision in the absence of the Respondent. The Tribunal noted that she had been given notice that she required to attend the hearing, and she had been directed to submit additional evidence in support of her position. It appeared that she had also had the benefit of professional advice from the CAB. The Tribunal was therefore satisfied that she had been given sufficient opportunity to participate in the proceedings.
- 25 The Tribunal was further satisfied that it could reach a decision based on the documentary evidence before it and the submissions at both the CMD and the hearing. The documents are referred to for their terms and incorporated into the Tribunal's findings in fact. Neither party had sought to challenge the evidence

presented by the other and the substantive facts of this case were not in dispute.

- 26 The Tribunal therefore considered the wording of section 33 of the 1988 Act:-

“Recovery of possession on termination of a short assured tenancy.

(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.

(2) The period of notice to be given under subsection (1)(d) above shall be—

(i) if the terms of the tenancy provide, in relation to such notice, for a period of more than two months, that period;

(ii) in any other case, two months.”

- 27 The Tribunal accepted that the short assured tenancy had reached its finish and tacit relocation was no longer operating, based on the notice to quit produced with the application. The Tribunal also accepted that the Applicant had given the tenant notice stating that she required possession of the house, again based on the documentary evidence before it.
- 28 The Tribunal therefore went on to consider whether it was reasonable to make an eviction order which required the Tribunal to identify those factors relevant to reasonableness and apply weight to these.
- 29 The Tribunal took into account the Applicant’s circumstances. It was clear that the property was no longer financially viable due to the threat of increasing mortgage rates. The Tribunal also noted the Applicant’s other financial commitments, and the reduction in her income following her divorce. She was now a single parent, with a disabled child. The Tribunal accepted that her financial situation was precarious and that the sale of the property would ease some of the pressures she was facing. These were all factors to which the Tribunal gave significant weight.
- 30 The Tribunal carefully considered the Respondent’s circumstances as outlined in her submissions at the CMD. The Tribunal took into account the fact that she resided in the property with her teenage daughter who attended the local school, and that the Respondent herself was employed in the local area. Whilst the risk of homelessness to the Respondent and her daughter was a cause for concern, ultimately the Tribunal gave most weight to the fact that she had been actively seeking rehousing in the social sector. The Tribunal was aware from its own knowledge that the making of an eviction order would assist the Respondent in her housing search by prioritising her application for rehousing.

- 31 However, the Tribunal was conscious of the upcoming festive period, and the current challenges faced by local authorities in sourcing tenant accommodation. The Tribunal therefore considered that it would be reasonable to suspend execution of the order until 12 January 2026 to provide the local authority with sufficient time to source a suitable property for the Respondent and minimise any disruption to the Respondent's living arrangements insofar as possible. The Applicant did not appear to have any objection to this.
- 32 The Tribunal therefore concluded that it would be reasonable to make an eviction order in this case, provided that execution of the order is suspended until 12 January 2026.
- 33 The decision of the Tribunal 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.

R O'Hare



Legal Member/Chair

22 October 2025

Date