



**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/24/4549

**Re: Property at Flat D, 10 Buchanan Drive, Newton Mearns, G77 6QN (“the
Property”)**

Parties:

**Mrs Christine Dearie, Mr James Dearie, 53 Beech Avenue, Newton Mearns,
Glasgow, G77 5QR (“the Applicant”)**

**Mr Habeeb Adelekan-Kamara, Ms Tinuke Aje (SBA), Flat D, 10 Buchanan Drive,
Newton Mearns, G77 6QN; unknown, unknown (“the Respondents”)**

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to grant an order for eviction relying on section 33 of the
Housing (Scotland) Act 1988.**

Background

1. By application accepted on 28 October 2024 the applicants seek an order for eviction relying on section 33 of the Housing (Scotland) Act 1988. The case was submitted alongside case reference FTS/HPC/CV/24/4552 in terms of which the applicants sought an order for payment for outstanding rent arrears.
2. The applicants lodged the following documents with the application:
 - Copy tenancy agreement

- Copy form AT5
 - Copy Notice to quit with proof of service
 - Copy section 33 notice with proof of service
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2001 with proof of delivery
 - Rent statement
 - Affidavit of Christien Dearie
 - Property inspection report dated 8 January 2025
3. A case management discussion (“cmd”) took place on 16 April 2025 to consider both applications. Mrs Dearie was in attendance with her solicitor Ms Herd, Complete Clarity Solicitors. The second respondent was in attendance. The second respondent stated that the first respondent had moved from the property in April 2024. He stated that she continued to visit the property on a regular basis to see her 2 young children who reside in the property. The second respondent stated that he was unable to provide a new address for the first respondent.
 4. The second respondent accepted that rent arrears were due and did not oppose an order for payment in the sum of £1750 being granted in respect of the conjoined case. A time to pay direction was granted specifying that the respondent should make payments of £200 per month towards the debt.
 5. The second respondent did not dispute that a valid notice to quit and section 33 notice had been served. However, he sought to oppose an order for eviction on the grounds of reasonableness. The Tribunal determined to fix an evidential hearing to consider the matter. A Direction was issued to parties following the cmd requesting parties submit information in advance of the hearing. The Direction specified that the second respondent should submit:
 - i. Documentation confirming his eligibility for universal credit housing costs and the amount received.
 - ii. Evidence of rental payments made between January 2025 and April 2025.
 - iii. Documents confirming his current income from employment and benefits.
 - iv. Documents confirming his status as primary carer for his 2 children.
 - v. Any documents/evidence showing the availability of alternative accommodation in the local area.
 - vi. Documents showing any attempts to secure alternative

accommodation.

vii. Any other documentation or evidence he seeks to rely on.

6. In advance of the hearing the second respondent submitted a document showing that he received Universal Credit which included a payment to cover support of his 2 children and housing costs of £750 per month. The second respondent also submitted a screen shot dated 12 May 2025 confirming that he had an active application for housing with East Renfrewshire Council and an email from a Housing Options Officer at East Renfrewshire Council dated 1 July 2024 containing advice on where to access alternative accommodation.

Hearing – 29 October 2025 , 10am – teleconference

7. The first applicant, Mrs Dearie was in attendance with her solicitor Ms Herd. Neither respondent attended. Neither respondent attended. The Tribunal clerk telephoned the second respondent twice and emailed him on the address provided to the Tribunal to check whether there was any issue with his joining the teleconference. There was no answer to the call and no response to the email. The Tribunal delayed starting the hearing until 10.15am. The Tribunal was satisfied that both respondents had been properly notified of the hearing and determined to proceed with the hearing in their absence in terms of rule 29.

Summary of evidence of Christine Dearie

8. Mrs Dearie adopted her affidavit dated 1 April 2025 as her evidence. Mrs Dearie confirmed that she is the joint owner of the property with her husband, James Dearie. She stated that the property had been purchased as an investment. Ms Dearie stated that the applicants did not own any other rental property. She had retired and the applicants sought to sell the property as part of the financial planning for their retirement.
9. Mrs Dearie stated that the rent in the property had not been increased for a number of years. She stated that she had tried to keep the rent affordable as she was aware that that the tenants had young children.
10. Mrs Dearie stated that the conduct of the second respondent had been a cause of great stress to the applicants. She stated that they were very concerned at the condition of the property and the second respondent's failure to upkeep the

property and to allow access to the property for the purpose of property inspections. She also stated that the second respondent had failed to report repairs issues.

11. Mrs Dearie referred to 2 separate occasions when there had been repairs issues with the bathroom which had not been reported. Most recently in October 2023 following a period when the second respondent had not allowed access to the property it had been discovered that there was severe damage to the bathroom. She stated that it was a real worry that the property was not being looked after. As a result the applicants had required to replace the bathroom at a cost of £5280. During the period when repairs were carried out the respondents required to be accommodated in a hotel at a cost of £900.
12. Mrs Dearie stated that there were ongoing issues with access to the property. The property inspection report from January 2025 was the last time the letting agent had gained access to the property. The photographs taken then showed that the property was in poor condition. Mrs Dearie was concerned at the cost of repairing the damage to the property. Mrs Dearie stated that she had no direct contact with the second respondent and that contact was via the letting agents. Countrywide. She stated that she had been told by the letting agent that due to the second respondent's abusive conduct only one male agent was able to deal with him.
13. Mrs Dearie stated that the second respondent had been maintaining rental payments since the cmd. He had also made monthly payments of £200 towards the outstanding arrears. However, she stated that the payments were frequently made late. She stated that she was concerned that if an eviction order was not granted the respondent would stop paying and arrears would begin to build up again.

Submissions from Ms Herd

14. Ms Herd sought an order for eviction. She invited the Tribunal to accept Mrs Dearie's affidavit and oral evidence. She submitted that Mrs Dearie was a credible and reliable witness who had been consistent in her evidence throughout the Tribunal process.

15. Ms Herd stated that it was reasonable to grant an order for eviction and highlighted the following factors:

- The applicant seeks to sell the property in order to fund their retirement
- There was undisputed evidence that the respondents had failed to report repairs issues – particularly in the bathroom. This had resulted in the applicants covering the costs of expensive repairs. The property inspection carried out in January 2025 had shown further evidence of a failure to maintain the property with evidence of mould growth.
- Whilst the second respondent had made regular payments towards the rent and arrears since the application was submitted, payments were routinely late and given the pattern of persistent rent arrears the applicants believe there is a risk of arrears arising again.
- The second respondent's conduct is a cause of ongoing stress to the applicants who wish to sell the property.
- The respondents failed to attend the hearing. The second respondent has failed to submit evidence as requested by the Tribunal showing his current financial circumstances. He has failed to submit documents showing that he is the primary carer of his 2 children.

Findings in fact

16. The parties entered into a short assured tenancy agreement with a commencement date of 24 March 2017. An AT5 was served on the respondents prior to the commencement of the tenancy.

17. Monthly rent in terms of the short assured tenancy agreement is £750.

18. The property is a 2 bedroom flat.

19. The property was initially occupied by the respondents and their 2 children who are currently aged 10 and 8.

20. On or around April 2024 the first respondent moved out of the property.

21. The second respondent is self employed and receives Universal Credit on a monthly basis which includes a housing costs payment of £750.

22. Rent arrears as at April 2025 amounted to at least £1750.

23. Rent arrears as at 29 October 2025 amount to £699.90.

24. Since April 2025 the second respondent has maintained monthly payments towards the rent and made additional payments of £200 towards the arrears.
25. The respondents failed to report repairs issues to the bathroom in the property during 2023 and have failed to allow reasonable access to the property at the request of the applicant's letting agents.
26. As a result of their failure to report repairs timeously and to allow reasonable access the applicants have incurred expenses including the expense of a full bathroom refit in 2023 and the cost of accommodating the respondents in a hotel whilst the repair was carried out.
27. The applicants seek to sell the property as part of their retirement financial planning.
28. The applicants own no other rental properties.
29. The conduct of the respondents in the tenancy including persistent rent arrears, failure to report repairs and to allow reasonable access to the property had been a source of stress for the applicant.
30. The respondents did not attend the hearing to oppose an order for eviction being granted.
31. The second respondent had previously sought advice regarding his housing options and had submitted an application for housing to East Renfrewshire Council.
32. The applicant has complied with the requirements of section 33 of the Housing (Scotland) Act 1988
33. It is reasonable to grant an order for eviction.

Reasons for the decision

34. Section 33 of the Housing (Scotland) Act 1988 states:

33 (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.

35. In the present application the applicants have satisfied the requirements of section 33 (a), (b) and (d). The Tribunal is satisfied that a short assured tenancy was created when the respondents moved into the property. A notice to quit and notice in terms of section 33 were served on 24 September 2024. The notice to quit had the effect of preventing tacit relocation from operating. The section 33 notice provided the tenant with notice that the applicant required possession of the house.

36. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against.

37. The Tribunal took into account the oral and written submissions on behalf of the applicants. The Tribunal took into account the documents submitted by the second respondent and his oral submissions at the cmd.

38. The Tribunal found the first applicant to be credible and reliable and accepted her submissions as truthful.

39. The Tribunal gave weight to the fact that the conduct of the tenancy had been a significant source of stress and had a direct financial impact on the applicants due to the persistent rent arrears issue and the significant outlays incurred to carry out repairs to the bathroom. The Tribunal accepted and gave weight to the first applicant's evidence that the property had been purchased as an investment which the applicants now sought to sell in order to fund their retirement. They no longer wished to be landlords.

40. The Tribunal gave significant weight to the fact that the respondent resided in the property with his 2 young children. He had stated at the cmd that both children attended local schools. In the event that the second respondent had

not secured alternative accommodation they would face significant disruption in the event that an order was granted.

41. The Tribunal gave significant weight to the fact that the respondents did not attend the hearing to oppose an order for eviction being granted or to present additional evidence. The second respondent's failure to attend meant that the Tribunal had not been able to obtain evidence relating to the family's current circumstances and in particular whether alternative accommodation had been found.
42. The Tribunal also took into account that the second respondent had been maintaining rental payments since April 2025 and was receiving Universal Credit to cover housing costs. However set against that the Tribunal took into account the applicants' position that the history of persistent rent arrears meant that there was a high risk of arrears arising again.
43. Taking the foregoing circumstances into account and in particular taking into account the second respondent's failure to attend the hearing to oppose an order for eviction, the Tribunal determined that it was reasonable in the circumstances to grant an order for eviction.

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.

Mary-Claire Kelly

Legal Member/Chair

29 October 2025
Date
