



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/24/4663

Re: Property at 33 Flat A Herbert Street, Glasgow, G20 6NB (“the Property”)

Parties:

Mr Scott Cooper, 2 Lorraine Road, Glasgow, G12 9NZ (“the Applicant”)

Ms Flaka Tafarshiku, 33 Flat A Herbert Street, Glasgow, G20 6NB (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member), Robert Buchan (Ordinary Member)

Decision

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

Background

1. By application dated 31 October 2024 the applicant seeks an order for eviction relying on section 33 of the Housing (Scotland) Act 1988.
2. The following documents were lodged with the application:
 - Tenancy agreement
 - Form AT5
 - Notice to quit with proof of service
 - Email regarding marketing the property for sale
 - Letter from Skipton Building Society
 - Section 11 notice with proof of delivery

3. A case management discussion (“cmd”) took place via teleconference on 16 May 2025. The applicant was represented by Mr Mackenzie from Yates Hellier Ltd. The respondent was in attendance. The respondent opposed the application. The Tribunal determined to fix an evidential hearing to consider whether the landlord had complied with the requirements of section 33 and whether it is reasonable to grant an order. Having canvassed parties’ opinions on the format of the hearing the Tribunal fixed an in person hearing.
4. The applicant’s representative submitted further documents in advance of the hearing including:
 - Section 33 notice
 - Landlord’s ledger
 - Tenant’s ledger
 - Best Price Guide
 - Inspection report
 - Damp and mould survey report
 - CO2 readings
 - Copy complaint from Speirs Gumley Factors
 - Photographs

Hearing - 12 November 2025

5. A hearing took place on 12 November 2025 at Glasgow Tribunals Centre. The applicant attended with his representative, Mr Mackenzie. The respondent was also in attendance.
6. Mr Mackenzie confirmed that the applicant continued to seek an order for eviction. He referred to the section 33 notice that had been submitted on 16 May 2025 which showed that the technical requirements of section 33 had been met. He also submitted that it was reasonable to grant an order.
7. The respondent stated that she was no longer opposing an order for eviction being granted. She stated that she had sought housing advice and assistance from the local authority. She had submitted an application for housing. The respondent stated that she continued to work part time for Enable Scotland. She lived with her 3 children, 2 teenage boys and a ten year old girl. The property is a 2 bedroom flat which meant that the family were overcrowded with

the respondent and her daughter having to share a bedroom. The respondent stated that there were also issues with the condition of the property. She stated that the problem was severe and that she had approached her MP for advice regarding the condition of the property. The respondent stated that the property was unsuitable for her family. She stated that she had not made rental payments for the most recent 2 months.

8. Mr Cooper stated that it remained his intention to sell the property. He stated that increased mortgage rates had led to increased outgoings. He stated that he owns 2 other rental properties however the mortgage rate for this one was the highest. He also referred to the age and condition of the property which had led to increased maintenance problems. Due to the age of the property he anticipated that maintenance costs would rise in the future which was also a factor in his decision to sell.
9. Ms Mackenzie stated that the respondent had been in rent arrears since August. He stated that there were concerns about the number of people staying in the property and a lack of ventilation which may be contributing to issues with dampness and mould identified in the report that had been submitted. He stated that some repairs had been carried out to the exterior of the property by the Property Factor but there was a need for further repairs internally to address the dampness and mould issue.
10. Mr Mackenzie stated that complaints had been made regarding the applicant's failure to dispose of items that had been left in the communal bin area. He also stated that he had been made aware that the respondent's partner may be living in the property which would likely contribute to condensation within the property.
11. Mr Mackenzie stated that a rent increase notice had been issued however the rental income was still £150 per month less than comparable properties.
12. The Tribunal enquired as to whether the respondent sought an extension of the period before the order became enforceable. No extension was requested.

Findings in fact and law

13. The parties entered into a short assured tenancy agreement with a commencement date of 1 July 2017. An AT5 was served on the respondent prior to the commencement of the tenancy.

14. A valid notice to quit and section 33 notice dated 1 July 2024 were served on the respondent.
15. The property is a 2 bedroom flat.
16. The respondent resides in the property with her 2 teenage sons and 10 year old daughter.
17. The respondent works part-time.
18. The respondent has sought advice from the local authority housing department and has an active application for housing.
19. The applicant intends to sell the property due to increased outgoings arising from the mortgage and forecast maintenance costs.
20. The property is affected by dampness and mould growth particularly in the 2 bedrooms.
21. The property is not suitable for the respondent's family.
22. The applicant has complied with the requirements of section 33 of the Housing (Scotland) Act 1988
23. The respondent does not oppose the present application.

Reasons for decision

24. 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.

25. In the present application the applicant has satisfied the requirements of section 33 (a), (b) and (d). The Tribunal is satisfied that a short assured tenancy was created when the respondent moved into the property. A notice to quit and notice in terms of section 33 were served on 1 July 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.
26. 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.
27. The Tribunal took into account the parties' oral submissions at the cmd and hearing and the various documentary evidence submitted on behalf of the applicant.
28. The Tribunal gave significant weight to the fact that the respondent did not oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted.
29. The Tribunal also gave considerable weight to the parties' submissions regarding the condition of the tenancy and its suitability for the respondent's family. The Tribunal accepted that the property was too small for the respondent's family and that both bedrooms had significant issues with dampness and mould growth. The Tribunal also gave weight to the respondent's submissions that she was actively looking for other accommodation.
30. The Tribunal took into account the applicant's evidence that he intended to sell the property due to increased outlays and forecast maintenance costs.
31. Taking the foregoing factors into account the Tribunal determined that on balance it was reasonable 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.

M.C-Kelly

Legal Member/Chair

12 November 2025
Date
