



**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/25/1488

Re: Property at 29 McColl Avenue, Alexandria, G83 0JB (“the Property”)

Parties:

**Maconochies of Kilmarnock Limited, 22-26 Campbell Street, Kilmarnock, KA1
4HW (“the Applicant”)**

**Ms Laura McLaughlin, 29 McColl Avenue, Alexandria, G83 0JB (“the
Respondent”)**

Tribunal Members:

Nicola Irvine (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 Applicant is entitled to the Order sought for
recovery of possession of the property.**

Background

1. The Applicant submitted an application under Rule 66 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 1 October 2025 informing both parties that a CMD had been assigned for 11 November 2025 at 10am, which was to take place by conference call. In that letter, the parties were also told that they were required

to take part in the discussion and were informed that the Tribunal could make a decision on the application at the CMD if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 22 October 2025. No written representations were received by the Tribunal.

The case management discussion – 11 November 2025

4. The CMD took place by conference call. The Applicant was represented by Ms Lynn Walker, solicitor. The Respondent did not join the conference call and the discussion proceeded in her absence. The Tribunal explained the purpose of the CMD.
5. The Applicant's representative explained that the Applicant is in the process of selling all of its residential property and the Applicant intends to sell this Property if an order is granted. The Respondent moved into the Property with 4 children and it is believed that 3 of those children are now adults. The Respondent is in employment and the Applicant does not know whether she received any benefits. The Applicant served a notice to quit and section 33 notice on the Respondent in October 2024 and since that date, the Respondent has failed to pay any rent. Until that point, the Respondent operated the tenancy without any issues. There has been no contact from the Respondent since the notices were served. The basis upon which recovery of possession was sought is that by operation of section 33, the tenancy has been brought to an end at the ish date.
6. The Tribunal raised the issue of the status of the tenancy agreement. The Applicant's representative explained that the Respondent uplifted the keys to the Property on 8 June 2012 and took entry on that date. She also acknowledged in the tenancy agreement that it was a short assured tenancy. It was submitted that the first and last dates of the fixed term were to be counted and the tenancy therefore met the definition of a short assured tenancy.

Findings in Fact

7. The Applicant is the owner and landlord of the Property at 29 McColl Avenue, Alexandria, G83 0JB
8. The Respondent is the tenant of the Property.
9. The tenancy in question is a short assured tenancy which commenced on 8 June 2012. The tenancy has continued on a month to month basis following the expiry of the fixed term.
10. The Applicant served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by recorded delivery post on 16 October 2024.

11. On 8 April 2025 the Applicant applied to the Tribunal for an order for possession based on the operation of section 33 of the Housing (Scotland) Act 1988.
12. The short assured tenancy had reached its ish.
13. Tacit relocation was not operating.
14. No further contractual tenancy was operating.

Reason for Decision

15. The Tribunal was satisfied that it could make relevant findings in fact in order to reach a decision following the CMD, and that to do so would not be contrary to the interests of the parties in this case.
16. In relation to the status of the tenancy, the Tribunal considered the cases of McCabe v Wilson (2006 Hous. L. R. 86) and Calmac Development Limited v Wendy Murdoch 2012 WL 3062547. The information before Tribunal was that the Respondent took entry on 8 June 2012 and therefore that counted as the first day of the tenancy agreement. In addition, the tenancy agreement states that it was a short assured tenancy and the Respondent received the form AT5 on 6 June 2012. In all of these circumstances, the Tribunal concluded that the tenancy was a short assured tenancy.
17. The Tribunal proceeded on the basis of the documents lodged and the information provided at the CMD. The Applicant served a notice to quit and a notice in terms of section 33 of the Housing (Scotland) Act 1988. The conditions of section 33 had been satisfied in respect that the tenancy had reached its ish, tacit relocation was not operating and no further contractual tenancy was in operation. The Applicant provided a reason as to why it wishes to recover possession of the Property. The Respondent did not take part in the CMD and did not lodge any written representations. The information before the Tribunal was that the Respondent is not meeting her primary obligation to pay rent and has not done so since October 2024. The Tribunal was persuaded that 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.

Nicola Irvine

Legal Member/Chair:

Date: 11 November 2025