

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/25/1265

Re: Property at 76 THORNHILL DRIVE, KIRKCALDY, KY2 5BJ (“the Property”)

Parties:

GLENROY PROPERTIES LTD, 18 FLOORS PLACE, KIRKCALDY, KY2 5SF (“the Applicant”)

MS NICOLA CLARK, 76 THORNHILL DRIVE, KIRKCALDY, KY2 5BJ (“the Respondent”)

Tribunal Members:

Nicola Irvine (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 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 25 September 2025 informing both parties that a CMD had been assigned for 6 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 16 October 2025. No written representations were received by the Tribunal.

The case management discussion – 6 November 2025

4. The CMD took place by conference call. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/25/1267. The Applicant was represented by Ms Jacqueline Barr. 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 rent arrears started to accrue in January 2023 and no payments have been made towards the rent account since that date. The level of rent arrears has increased to £17,000. When the Respondent moved into the Property, she was believed to live alone. It is believed that in or around the beginning of 2023, the Respondent's partner moved into the Property. The Respondent's partner is believed to be in employment. From January 2023, the Respondent's benefit payments towards rent stopped. The Respondent has not engaged with the Applicant or her representatives, either in relation to payment of rent or in relation to access to have repairs carried out. 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.

Findings in Fact

6. The Applicant is the owner and landlord of the Property at 76 Thornhill Drive, Kirkcaldy, KY2 5BJ
7. The Respondent is the tenant of the Property.
8. The tenancy in question is a short assured tenancy which commenced on 21 February 2012. The tenancy has continued by tacit relocation.
9. The Applicant served Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 on the Respondent by sheriff officer on 18 October 2024.
10. On 20 March 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.
11. The short assured tenancy had reached its ish.

12. Tacit relocation was not operating.
13. No further contractual tenancy was operating.

Reason for Decision

14. 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.
15. 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 end, tacit relocation was not operating and no further contractual tenancy was in operation. The Respondent is not meeting her primary obligation to pay rent and has not done so since December 2022. The Respondent did not participate in these proceedings and did not offer any explanation for the non payment of rent. 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: 6 November 2025