



**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/25/1655

**Re: Property at 8 Loch Awe Way, Whitburn, West Lothian, EH47 0RJ (“the
Property”)**

Parties:

**Allah Rakhi, 110 Inch Wood Avenue, Bathgate, EH48 2EF as executrix-dative of
the late Mukhtar Ali (also known as Liaqat Ali and Liaquat Mukhatar Ali) (“the
Applicant”)**

**Sara Khan, 8 Loch Awe Way, Whitburn, West Lothian, EH47 0RJ (“the
Respondent”)**

Tribunal Members:

Joel Conn (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

1. This is an application by the Applicant for an order for possession on termination of a short assured tenancy in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The tenancy in question was a Short Assured Tenancy of the Property by the Applicant’s late husband, Liaqat Ali (“the Landlord”), to the Respondent commencing on 12 April 2010.
2. The application was dated 17 April 2025 and lodged with the Tribunal on that date. The application relied upon a Notice to Quit and notice in terms of section 33 of the Housing (Scotland) Act 1988, both dated 10 February 2025, providing the Respondent with notice (respectively) that the Applicant sought to terminate the Short Assured Tenancy and have the Respondent vacate, each by 12 April

2025. Evidence of service of the said notices by Sheriff Officer on 10 February 2025 was included with the application.

3. Also included with the application was evidence of the appointment of the Applicant as executrix-dative of the Landlord on 15 March 2024, pre-dating the said Notice to Quit and Section 33 Notice. The Landlord was said to have passed away on 23 April 2022.
4. Evidence of a section 11 notice dated 17 April 2025 in terms of the Homelessness Etc. (Scotland) Act 2003 served upon West Lothian Council was provided with the application.

The Hearing

5. On 10 October 2025 at 10:00, at CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting remotely by telephone conference call, we were addressed by Lewis Bryan, solicitor, Sneddon Morrison for the Applicant. There was no appearance for the Respondent.
6. We sought confirmation from the Tribunal's clerk as to any contact from or on behalf of the Respondent but there had been none. The Applicant's agent confirmed that there had been no contact with the Respondent with his office, but he understood there to have been direct contact between the parties throughout the recent period, and as recently as a week ago. The details of the communications between the parties (as understood by the Applicant's agent) are recorded below in regard to the question of reasonableness. In consideration of those submissions and in all the circumstances, and having not commenced the CMD until 10:05, we were satisfied to hear the application in the absence of the Respondent. (In any event, neither the Respondent nor anyone on her behalf sought to dial into the CMD call at any time before its conclusion.)
7. The Applicant's solicitor confirmed the application was still insisted upon. Between the application papers and his oral submissions we noted the following points relevant to the question of reasonableness:
 - a. The Property is a three-bedroom semi-detached, former local authority house, with garden area.
 - b. The Respondent is believed to live there with her partner and their six children. The Applicant's agent was not able to assist us on their ages, but accepted that the Respondent and her partner were of working age and that some or all of the children were likely in school.
 - c. The Respondent and her partner are both believed to be in employment.
 - d. The rent was previously paid through Universal Credit but, at some point following the Landlord's death, payment ceased and was not transferred to the Applicant. The Applicant's agent believed that this was because the Respondent had failed to provide the necessary consent for UC payments to go direct to the Applicant.
 - e. There were now rent arrears of £15,950. No rent had been paid since May 2023.

- f. Through the period from May 2023, the Respondent has made various complaints about the condition of the Property but no application has been raised by her in regard to this.
- g. The Respondent has discussed with the Applicant a desire to be rehoused into social housing.
- h. The Respondent reported to the Applicant that she had sought rehousing from the local authority but was told that she would not be rehoused until an order for eviction was granted against her.
- i. The Property is not known to be specially adapted for the Respondent's use nor of any occupant.
- j. The Applicant's agent was not aware whether or not the Property was especially suitable due to its location or nature to the Respondent or any occupant, but accepted that some or all of the children were likely to be at local schools.
- k. The Applicant falls to inherit at least one further rental property.
- l. The Applicant requires to wind up the Landlord's estate. In this regard, she has a number of options in regard to the Property, and has not yet come to a settled decision on which to pursue. She may wish to sell the Property to realise its value in the winding up, or she may wish to take title to the Property as the main beneficiary. If the Property is not sold, a family member of the Applicant may move into it.

8. No order for expenses was sought.

Findings in Fact

- 9. By written lease dated 12 April 2010, the Landlord let the Property to the Respondent by lease with a start date of 12 April 2010 for a period of six months ("the Tenancy").
- 10. The Tenancy was a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988 further to the Landlord issuing the Respondent with a notice under section 32 of the 1988 Act (an "AT5") prior to commencement of the Tenancy.
- 11. The Landlord died intestate on 23 April 2022.
- 12. On 15 March 2024, the Applicant was appointed executrix-dative of the Landlord by the Sheriff at Livingston.
- 13. On 10 February 2025, the Applicant's agent drafted a Notice to Quit in correct form addressed to the Respondent, giving the Respondent notice that the Applicant wished her to quit the Property by 12 April 2025.
- 14. On 10 February 2025, the Applicant's agent drafted a Section 33 Notice under the 1988 Act addressed to the Respondent, giving the Respondent notice that the Applicant required possession of the Property by 12 April 2025.
- 15. 12 April 2025 is an ish date of the Tenancy.

16. On 10 February 2025, a Sheriff Officer acting for the Applicant's agent competently served each of the notices upon the Respondent. The Respondent was thus provided with sufficient notice of the Applicant's intention that the Tenancy was to terminate on 12 April 2025.
17. On or around 17 April 2025, the notice period under the notices having expired, the Applicant raised proceedings for an order for possession with the Tribunal, under rule 66, the grounds of which being: that the Tenancy had reached its end; that tacit relocation was not operating; that no further contractual tenancy was in existence; that notice had been provided that the Applicant required possession of the Property all in terms of section 33 of the 1988 Act; and that it was reasonable to make the order.
18. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon West Lothian Council on or around 17 April 2025 on the Applicant's behalf.
19. On 3 September 2025, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 20 October 2025.
20. The Applicant seeks to wind up the estate of the Landlord. The Applicant is yet to consider whether to sell the Property or take personal title as a beneficiary. In either case, the Applicant wishes vacant possession.
21. The Respondent is in rent arrears of £15,950 as of 20 October 2025, having ceased to make payment of rent since May 2023.
22. The Respondent lives with her partner and six children at the Property.
23. The Property is not specially adapted for the Respondent's needs or those of the other occupants.
24. The Respondent has sought to be rehoused into social housing.

Reasons for Decision

25. The application was in terms of rule 66, being an order for possession upon termination of a short assured tenancy. We were satisfied on the basis of the application and supporting papers that the necessary notices had been served with sufficient notice, and thus the requirements of the 1988 Act had been complied with. In any event, the Respondent tendered no dispute as to the validity of the notices.
26. We require, in terms of the 1988 Act as currently amended, to consider "that it is reasonable to make an order for possession". On this, the Respondent again offered no opposition. Leaving aside the issue of arrears, we were satisfied that the Applicant's reasons for seeking eviction were reasonable in that she was an executor who was obliged to wind up an estate (even if that resulted in transfer of the title to the Property to herself). We were obliged to the Applicant's agent

for his candid submissions, which included that the Respondent was seeking to be rehoused and had been told – as many residential tenants are currently told – that her application for rehousing will only be considered if an order for eviction is granted against her. We were satisfied that the Respondent had received normal intimation of the application and the CMD, and that she had engaged with the Applicant in a way that showed that she was aware of the threat of eviction. In the circumstances of no defence being expressed to us, we were satisfied that it was reasonable to evict even in the absence of considering the arrears vs repairs issue.

27. When the issue of the arrears was included, the Applicant's argument for reasonableness only strengthened. We have received no submissions regarding arrears or a complaint about the condition of the Property. Even if the Respondent had entered an appearance, she would have required to have provided submissions to show a material detriment, and thus that she may be entitled to a significant abatement of rent or damages. Nothing was provided at all. We are obliged to the Applicant's agent for his candour but we do not require to consider defences that are not made.
28. In all the circumstances, we were satisfied that the Applicant's reasons for seeking eviction were reasonable and we were thus satisfied to grant the application. The Rules allow at rule 17(4) for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time in normal terms.

Decision

29. In all the circumstances, we make the decision to grant an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

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 hem.

Joel Conn

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20 October 2025

Legal Member/Chair

Date