



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 Housing (Scotland) Act 1988 (“the 1988 Act”)

Chamber Ref: FTS/HPC/EV/24/5480

Property at 13 Piedmont Road, Girvan, Ayrshire, KA26 0DS (“the Property”)

Parties:

Mr Robert Hall, 29 Goukscroft Park, Ayr, KA7 4DS (“the Applicant”)

Miss Laura Devine, 13 Piedmont Road, Girvan, Ayrshire, KA26 0DS (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Gerard Darroch (Ordinary Member)

Decision - in absence of the Applicant

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for possession of the property should be refused.

Background

1. The Applicant lodged an application seeking an order for possession of the property in terms of Section 33 of the 1988 Act. A tenancy agreement, AT5 notice, Notice to Quit, Section 33 Notice and Section 11 Notice were lodged with the application. A copy of the application was served on the Respondent and both parties were notified that a case management discussion (“CMD”) would take place on 9 June 2025 at 2pm. Prior to the CMD the Respondent’s representative lodged written submission and documents relating to the Respondent’s Local Authority housing application.
2. The CMD took place on 9 June 2025. The Applicant participated. The Respondent was represented by Mr Anderson from Ayr Housing Aid Centre.
3. Mr Anderson told the Tribunal that the application is opposed. He referred to his written submission and confirmed that, although the Respondent is well placed in terms of being offered alternative housing by the Council, it is not certain when this will be. This is partly due to the size of the family. The

Respondent is concerned that she will have to seek temporary accommodation which could be some distance from school and work. There is also a possibility that they will be offered bed and breakfast accommodation, if more suitable temporary accommodation is not available.

4. Mr Hall told the Tribunal that he had expected the case to be decided at the CMD. The Respondent had been a good tenant but had recently stopped paying rent and the property was in a poor condition. Mr Anderson told the Tribunal that Mr Hall contacted him about the rent. He spoke to the Respondent who said that the property does not currently meet the tolerable standard and that the Council's Environmental Services department had become involved.
5. The Tribunal determined that the case would proceed to an evidential hearing restricted to the issue of reasonableness. The Tribunal also issued a direction in relation to the provision of further documents.
6. The parties were notified that a video conference hearing would take place on 26 November 2025 at 10am. Neither party submitted any further documents. On 6 November 2025, the Respondent's representative emailed the Tribunal to advise that the Respondent had been told that the property has been sold and that she has a new landlord. On 12 November 2025, the Applicant notified the Tribunal that he had sold the property and would not be attending the hearing. In response to an enquiry from the Tribunal about whether he was withdrawing the application, the Applicant stated that he no longer owned the property and did not know if the new owner intended to pursue the eviction order. He did not withdraw the application. The parties were notified that the hearing would proceed, as the application had not been withdrawn, but that it was likely that the Tribunal would refuse the application in the circumstances.
7. The Hearing took place on 26 November 2025 at 10am. Mr Anderson participated on behalf of the Respondent. He was the only attendee.

The Hearing

8. Mr Anderson said that the Respondent had intended to attend the hearing, but she was having technical problems and did not think she would be present. Mr Anderson told the Tribunal that the Respondent contacted him at the end of October. She said that the property had been sold. She is now paying rent to a Mr Miller, and he has arranged for refurbishment work to be carried out at the property. When these are complete, it is anticipated that the rent will be increased, but she is happy with the new arrangement as the property suits her family.

Findings in Fact

9. The Applicant is the former owner and former landlord of the property.

10. The Respondent is the tenant of the property in terms of a short assured tenancy agreement.
11. On or about the 21 October 2025, the Applicant sold the property to EK Scotland Holdings Ltd. The Applicant ceased to be the owner and landlord of the property on that date.

Reasons for Decision

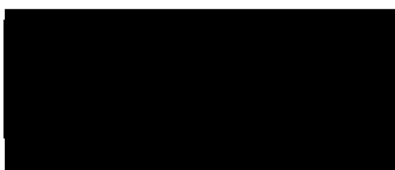
12. Section 33 of the 1988 Act sets out the circumstances in which a landlord can obtain an order for possession of a property which is occupied in terms of a short assured tenancy. The application was made by the former owner of the property, when he was the owner and landlord. The Applicant failed to provide the Tribunal with evidence of the sale. However, as the Tribunal is entitled to make its own enquiries when dealing with an application in terms of Rule 20 of the Procedure Rules 2017, the Tribunal obtained a copy of the title sheet for the property from Registers of Scotland. Although the title sheet indicates that the Applicant is still the owner, there is a pending application for registration by EK Scotland Holdings Ltd dated 21 October 2025. The new owner did not contact the Tribunal or apply to be substituted as the Applicant in terms of Rule 32 of the Procedure Rules.
13. As he has sold the property, and is no longer the owner and landlord, the Applicant is not entitled to an order for possession of the property in terms of Section 33 of the 1988 Act. In any event, although he failed to withdraw the application, it appears that the Applicant is no longer insisting on the order being granted as he notified the Tribunal that he would not be present at the hearing. In the circumstances, the Tribunal is satisfied that it would not be competent or appropriate to grant the order. The application is refused on that basis.

Decision

14. The Tribunal determines that the application should be refused.

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.



Josephine Bonnar, Legal Member

26 November 2025