



**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/25/1684

**Re: Property at 51 Thornley Avenue, Knightswood, Glasgow, G13 3BX (“the
Property”)**

Parties:

**Mr John Rodger, Mrs Emma Rodger, 11 Tay Avenue, Comrie, Crieff, PH6 2PF
 (“the Applicant”)**

**Ms Clare Toner, 51 Thornley Avenue, Knightswood, Glasgow, G13 3BX (“the
Respondent”)**

Tribunal Members:

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

Decision (in absence of the Respondent)

**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 21 April 2025 the applicants seek an order for eviction
relying on section 33 of the Housing (Scotland) Act 1988.
2. The applicants lodged the following documents with the application:
 - Copy tenancy agreement
 - Copy form AT5
 - Copy Notice to quit

- Copy section 33 notice
- Proof of service of notice to quit and section 33 notice
- Notice under section 11 of the Homelessness Etc. (Scotland) Act 2001 with proof of delivery
- Rent statement
- Photograph of the property

3. A case management discussion (“cmd”) was scheduled to take place by teleconference on 18 November 2025

Case management discussion (“cmd”) – teleconference- 18 November 2025

4. The applicant Mr Rodger attended with his solicitor, Mr Buttery, Whyte Fraser & Co. The respondent was not present or represented. The respondent had been served with papers by Sheriff Officers on 10 October 2025. The Tribunal was satisfied that the respondent had been properly notified of the cmd in terms of rule 24.1 and proceeded with the cmd in her absence in terms of rule 29.
5. Mr Buttery sought an order for eviction. He referred to the documents that had been submitted which he stated complied with the requirements of section 33. In relation to reasonableness he referred to the level of arrears. He stated that an order for payment in the sum of £12,310 had been made against the respondent on 24 April 2025 under Tribunal reference FTS/HPC/CV/24/0823. The order related to rent arrears at the property. Mr Rodger stated that one payment of £650 had been received from the respondent since the payment order was granted. Arrears had since increased to £16,210.
6. Mr Rodger stated that when the tenancy commenced in 2012 the respondent had been residing with her young son. There had been no contact from the respondent for an extended period so that Mr Rodger was unaware of her current personal circumstances. He had been advised in the course of seeking to enforce the payment order that she was working as a self-employed personal trainer.
7. Mr Rodger stated that there was an outstanding mortgage over the property. The applicants owned no other rental properties and had purchased the

property as an investment as part of their retirement planning. Mr Rodger stated that the level of unpaid rent had a significant impact on the applicants' financial circumstances. Mr Rodger stated that the applicants intended to sell the property in the event that an order was granted.

8. Mr Buttery opposed any extension to the period before an eviction order was enforceable. He referred to the increasing arrears and the respondent's failure to engage with the applicants. It was also discussed that due to the timing of the order it was likely that any enforcement would in any event take place in the new year.

Findings in fact and law

9. The parties entered into a short assured tenancy agreement with a commencement date of 16 April 2012. An AT5 was served on the respondent prior to the commencement of the tenancy.
10. A valid notice to quit and section 33 notice dated 17 January 2025 were served on the respondent.
11. The applicants have complied with the requirements of section 33 of the Housing (Scotland) Act 1988
12. The respondent has not submitted any opposition to the present application and failed to attend the cmd.
13. Monthly rent is £650.
14. Rent arrears as at 18 November 2025 amount to £16,210.
15. The respondent has been in arrears of rent continuously since April 2020.
16. The respondent has not responded to the applicants' communications regarding rent arrears.
17. There is an outstanding mortgage over the property.
18. The applicants own no other rental properties.
19. The applicants purchased the property as an investment.
20. The applicants intend to sell the property.

Reasons for the decision

21. Rule 17 (4) states:

The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

22. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) *Subject to paragraph (2), the First-tier Tribunal—*

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

23. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

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 applicants have 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. This tenancy was also a short assured tenancy. A notice to quit and notice in terms of section 33 were served on 17 January 2025. 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 oral and written submissions on behalf of the applicants and the documents lodged on their behalf. The Tribunal found Mr Rodger to be credible and truthful and accepted his submissions in full.
28. The Tribunal gave significant weight to the fact that the respondent did not oppose an order for eviction being granted and made no objection to the reasonableness of the order being granted. The Tribunal also gave weight to Mr Buttery and Mr Rodger's submissions that the respondent had failed to engage with the applicants.
29. The Tribunal gave significant weight to the high level of the arrears which continued to increase and the small amount that had been paid by the respondent since March 2024. The Tribunal also took into account that the respondent had paid nothing towards the payment order obtained from the Tribunal under a separate reference FTS/HPC/CV/24/0823.
30. The Tribunal gave weight to the impact that the large level of arrears had on the applicants finances particularly as they required to cover the outlays for the property including the mortgage payments..
31. The Tribunal gave weight to the length of time the respondent had resided in the property and the fact that she had a son when she moved into the property however in the absence of any opposition to the application the Tribunal determined that in the circumstances it was reasonable to grant an order for eviction.

32. Given the lack of engagement from the respondent and the increasing arrears the Tribunal did not consider it appropriate to extend the period before the order became enforceable.

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.

Mary-Claire Kelly

Legal Member/Chair

18 November 2025

Date