



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 (“the 1988 Act”) and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/0105

Re: Property at 84 Elvan Street, 2/2, Glasgow, G32 7DE (“the Property”)

Parties:

Mrs Julia Taylor, 173 The Moors, Kidlington, Oxford, OX5 2AE (“the Applicant”)

Ms Hayley Duncan, 84 Elvan Street, 2/2, Glasgow, G32 7DE (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. The application received on 13 January 2025, as amended, sought an eviction order under Rule 66 on the basis that the Short Assured Tenancy had been brought to an end by service of the relevant notices. Supporting documentation was submitted, including a copy of the tenancy agreement, AT5, Notice to Quit, Section 33 Notice, section 11 Notice to the local authority and evidence of the Applicant’s intention to sell the Property on recovery of possession. The Short Assured Tenancy which was the basis of this application had commenced on 7 May 2017.
2. Following initial procedure, the application was accepted by the Tribunal on 29 July 2025 and notified to the Respondent by Sheriff Officer on 20 October 2025, together with details of the Case Management Discussion (“CMD”) which had

been scheduled. Representations were invited from the Respondent but none were received prior to the CMD.

Case Management Discussion

3. The CMD took place by telephone conference call on 4 December 2025 at 10am. It was attended only on behalf of the Applicant by Mrs Sacha McMahon of Easylet & Maintenance, the Applicant's letting agents. The Respondent did not attend, although the Tribunal delayed the commencement of the Tribunal by five minutes to give her an opportunity to join late.
4. Following introductions and introductory comments by the Legal Member, Mrs McMahon was asked if they had received any recent communications from the Respondent, or knew of her intentions regarding this application. It was confirmed that they had had very little contact with the Respondent over the past two years and in any communications they have had, the Respondent had made it obvious that she wanted to obtain social housing through the local authority. She had also stated that she is not actually living at the Property all the time and had just wished to retain the address for purposes of getting her children into local nurseries/schools. She has two children, both estimated to be under the age of 10 and it is understood that she may often reside with her partner who has his own home. Mrs McMahon explained that, although the Property is situated in a block of flats across the road from their offices, they cannot actually see the Property from their premises and so have been unable to observe if the Property is occupied or not. Mrs McMahon confirmed that the Respondent has continued to pay rent in respect of the Property, but has refused to pay the increased rent which is now £575. The rent was originally £500. As a consequence of the shortfalls in the rent payments, arrears now amount to £3,310.91. The letting agent has sought to engage with the Respondent over a long period of time regarding the arrears situation and have sent letters and hand-delivered letters to the Property too. They have also experienced difficulties accessing the Property in order for the standard safety checks to be carried out. Mrs McMahon confirmed that the Respondent only makes contact with them if she wants something done to the Property and they have tried to get the safety checks done when other works are being carried out. Mrs McMahon estimated that it was around a year since they had had any contact with the Respondent. The Property is a second-floor, two-bedroomed flat, the Respondent is estimated to be in her mid-30s and not to work. She receives benefits but makes her rental payments directly to the letting agents. Mrs McMahon was unaware of the Respondent having any issues with her health.
5. As to the Applicant's position, Mrs McMahon explained that she has wanted to sell this Property for a while and that they had produced confirmation that she has already instructed an estate agent to act for her in this matter. Due to the shortfall in the rent payments being made and the arrears which have accrued, the Applicant is now in a position where her mortgage payments every month exceed the rental income, so she wishes to sell as soon as she can. She has

no intention of keeping the Property on and trying to let it out again. This is the only rental property that the Applicant has.

6. The Tribunal Members conferred and, having considered the application, confirmed that the Tribunal had decided, in the circumstances, to grant the eviction order sought. Mrs McMahon was thanked for her attendance and participation at the CMD.

Findings in Fact

1. The Applicant is a joint owner and the landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Short Assured Tenancy which had commenced on 7 May 2017.
3. The Applicant ended the contractual tenancy by serving on the Respondent a Notice to Quit and Section 33 Notice dated 8 October 2024, by post on 10 October 2024.
4. The notices specified the end date of the notice period as 8 January 2025, an ish date in terms of the tenancy agreement.
5. Both notices were in the correct form, provided sufficient notice and were served validly on the Respondent.
6. The Respondent has remained in possession of the Property following expiry of the notice period.
7. This application was lodged with the Tribunal on 13 January 2025, following expiry of the notice period.
8. The Property is a two-bedroom flat.
9. The Respondent is understood to be in receipt of benefits but pays her rent direct.
10. The Respondent pays her rent regularly but does not pay the full amount due, resulting in a shortfall in the rental payments every month.
11. Rent arrears have accrued as a consequence and now exceed £3,000.
12. The Respondent has not engaged with the Applicant's letting agents in respect of the arrears and has been difficult about allowing access to the Property for property inspections/safety checks to be carried out.
13. The Respondent is understood to have two children residing with her and a partner who lives elsewhere.

14. The Respondent has informed the Applicant's letting agents that she does not occupy the Property full-time and wishes to obtain social housing through the local authority.
15. The Applicant wishes to recover the Property as she wishes to sell it for financial reasons due to the cost of her ongoing mortgage payments, the rent shortfall and the arrears situation.
16. The Applicant has already engaged the services of an estate agent to act in the proposed sale of the Property, once vacant possession is obtained.
17. The Respondent did not lodge any representations, nor attend the CMD.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, together with the oral information and submissions provided on behalf of the Applicant at the CMD by her letting agent.
2. The Tribunal was satisfied that the preliminary requirements of service of the Notice to Quit and Section 33 Notice in terms of the 1988 Act had been properly and timeously carried out by the Applicant prior to the lodging of the Tribunal application.
3. Section 33(1) of the 1988 Act states that an order for possession shall be granted by the Tribunal if satisfied that the short assured tenancy has reached its finish; that tacit relocation is not operating; that the landlord has given to the tenant notice stating that he requires possession of the house; and that it is reasonable to make an order for possession. The Tribunal was satisfied that all requirements of Section 33(1) had been met.
4. As to reasonableness, the Tribunal considered the background to the tenancy and the Applicant's reasons for wishing to recover possession of the Property. It was noted that the Respondent, whilst making rent payments, had failed to increase her payments in accordance with rent increases and that this resulted in a shortfall every month. Arrears had reached a significant level, now amounting to over £3,000. This was the Applicant's only rental property. Her monthly mortgage payments now exceeded the rental income and the Tribunal was satisfied that this was financially unsustainable for the Applicant. Notice had been served over a year ago and the Respondent had made no attempt to engage with the Applicant's agents regarding the rent arrears situation. The Respondent had not lodged representations nor attended the CMD and the Tribunal considered that there was therefore nothing to indicate that she was opposed to the application. Indeed, she had stated to the Applicant's agents that she wished to obtain alternative housing through the local authority. The Tribunal noted that the Applicant's agents had served the usual Section 11

Notice on the relevant local authority when application was made to the Tribunal and that the local authority was thus understood to be aware of these proceedings. Nevertheless, the Tribunal did obtain as much information as they could via the Applicant's agent at the CMD, and took this information into account when making its decision. In all of the circumstances, the Tribunal was persuaded that it was reasonable to grant the eviction order sought and to grant it at this stage. The Tribunal had no material before it contradicting the Applicant's position and did not therefore consider that there was any requirement for an Evidential Hearing.

5. The Tribunal's Decision was unanimous.

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.

N Weir

Legal Member/Chair

4 December 2025
Date