



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 18 and 33 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/25/0231 & FTS/HPC/EV/25/0225

Re: Property at Ryehill, Rattray, Peterhead, AB42 3HA (“the Property”)

Parties:

Rattray Estate Holdings Limited, Rattray Home Farm, Rattray, Peterhead, AB42 3HB (“the Applicant”)

Mr David McDonald, Ryehill, Rattray, Peterhead, AB42 3HA (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on section 33 of the Housing (Scotland) Act 1988 and grounds 6 and 13 in schedule 5 of the Housing (Scotland) Act 1988. The Tribunal determined that it was reasonable to suspend enforcement of the order until 19 January 2026.

Background

1. By applications accepted on 25 June 2025 the applicant seeks an order for eviction relying on on section 33 of the Housing (Scotland) Act 1988 and grounds 6 (substantial renovation works) and 13 (breach of tenancy agreement) in schedule 5 of the 1988 Act.
2. The applicant lodged the following documents with the applications:
 - Copy tenancy agreement
 - 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
- Photographs
- Copy for AT6
- Correspondence from Aberdeenshire Council regarding repairs

Case management discussion (“cmd”) – 14 November 2025 - teleconference

3. A cmd considered both conjoined applications on 14 November 2025. James Comyn attended for the applicant with his solicitor Mr Taylor, Burnett & Reid. The respondent, Mr McDonald attended on his own behalf.
4. Mr Taylor submitted documents on the morning of the cmd by email however, as these had not been timeously lodged and were not before the respondent at the cmd they were not taken into account by the Tribunal.
5. Mr Taylor sought an order for eviction. Mr McDonald stated that he did not intend to oppose an order being granted. Mr McDonald stated that he suffered from a number of medical conditions. He is 65 years old and stated that the property was unsuitable due to its age and condition and particularly as he was impacted by his various medical conditions. Mr McDonald stated that he had approached Aberdeenshire council for assistance to find alternative housing. He stated that he has an active application and that the council are aware of the applications seeking eviction that had been submitted by the applicant. He stated that a housing officer had visited him in the property. Mr McDonald stated that in the event he was evicted from the property he expected that the council would be in a position to provide him with more suitable housing.
6. Mr Taylor stated that he was aware that there had been significant council involvement in trying to find Mr McDonald a new property. He submitted that the property was one of a number of properties on the applicant’s estate that were rented out. The applicant intended to extensively renovate the property which required significant works before re-letting it.

Findings in fact

7. The parties entered into a short assured tenancy agreement with a commencement date of 5 May 2016.
8. A notice to quit and section 33 notice dated 27 September 2024 were served on the respondent.
9. An AT6 (notice of proceedings of possession) was served on the respondent on 18 October 2024
- 10.** The AT6 specified that the applicant intended to raise proceedings for eviction relying on grounds 6 and 13.
11. The applicant has 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.
13. The applicant intends to extensively renovate the property and re-let it.
14. The respondent has an active application for housing with Aberdeenshire council.
15. The respondent is 65 years old and suffers from a number of chronic medical conditions.
16. The property is unsuitable for the applicant's current circumstances.

Reasons for the decision

17. 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.

18. 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.

19. 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.

20. 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.

21. In the present application the applicant has 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. A notice to quit and notice in terms of section 33 were served on 27 September 2024. 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.

22. The Tribunal was satisfied in light of the lack of opposition that grounds 6 and 13 had been established. It was not disputed that the property was in a dilapidated condition and required extensive repair works.

23. The Tribunal considered whether it was reasonable to grant an order for eviction. The Tribunal gave great weight to the fact that the respondent did not oppose an order for eviction being granted. The Tribunal accepted his evidence that he had applied for an alternative property from the local authority. The

Tribunal accepted the respondent's evidence that he hoped to move to a property that was more suited to his needs.

24. In light of the respondent's lack of opposition to an order for eviction being granted the Tribunal determined that on balance it was reasonable to grant an order.

25. The Tribunal sought parties' views on whether any suspension of the period before enforcement was appropriate. The Tribunal determined that it was appropriate in the circumstances to suspend enforcement of the order until 19 January 2025.

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

Date: 14/11/2025