

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

---



**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 Act”)**

**Chamber Ref: FTS/HPC/EV/24/3564**

**Re: Property at 56 Dalzell Drive, Motherwell, ML1 2DA (“the Property”)**

**Parties:**

**Mr Stephen Boyd, 1 Ernest Wynd, Motherwell, ML1 3WH (“the Applicant”)**

**Miss Marion Paterson, 56 Dalzell Drive, Motherwell, ML1 2DA (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Eileen Shand (Ordinary Member)**

**Decision**

**[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order subject to the provision that it may not be enforced prior to 2 February 2026.**

**Background**

[2] The Applicant seeks an Eviction Order under section 33 of the Act. The Application is accompanied by a copy of the tenancy agreement and the notice to quit and notice under Section 33 of the Act with proof of service. The relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 is also produced. The Applicant has produced evidence setting out his reasons to sell the Property which are behind the instigation of the procedure under Section 33. The Respondent opposes the order sought. The Application had called for a Case Management Discussion which had made case management orders and continued the Application to an Evidential Hearing. There had been a previous Hearing that the Respondent had not attended. The Tribunal had noted that the Respondent had certain health issues and adjourned the Application to another

evidential Hearing under explanation that this should be considered as a final opportunity to participate and that the Tribunal would be unsympathetic to any other delays.

### **The Hearing**

[3] The Application then called for a Hearing at Glasgow Tribunals Centre at 10 am on 2 December 2025. The Applicant was present together with his representative, Ms Kirsty Donnelly of TC Young. He also had a witness present on his behalf, his wife, Ms Elaine Boyd. The Respondent was also personally present.

### **Preliminary matters**

[4] The Tribunal began by ensuring that all parties understood the purpose of the Hearing and how it would be conducted. The Tribunal made sure that everyone was familiar with the documentation submitted, had nothing further to add and were content to start the Hearing. The Tribunal therefore proceeded to hear evidence from each party in turn. After each party gave evidence, the other had the right to cross-examine. At the conclusion of evidence each party also had the opportunity to make closing submissions. The Respondent confirmed that she took no objection to the competency of the notices or their service. The Hearing was therefore very much focussed on the “*reasonableness*” or otherwise of granting the order sought.

### **Evidence**

[5] The Tribunal comments on the evidence heard as follows.

### **Mr Stephen Boyd**

[6] Mr Boyd works offshore in the North Sea. He described his work in detail. He is anxious about job security. He believes that the sector is in decline and that he has very limited job security. He is 55 years of age and has a physically very intensive job. He lives with his wife, Elaine Boyd and his 15-year-old son. Mr Boyd’s father owned this Property and another. When he died, they were inherited by Mr Boyd’s mother. His mother is now 83 years of age and she feels unable to be a landlord. She then signed the Property and another neighbouring property over to the Applicant. The Applicant explained that he never really wanted to be a landlord. He makes a modest profit from renting out the Property but does not consider that it justifies the stress and effort required. The costs are unpredictable and he explained that he didn’t want to be involved in it anymore. He can receive an email at any time about something that needs replacing. He and his wife also recently took out large personal loans to fund home improvements including an extension and garage conversion on their own home. They did so in anticipation of the Applicant’s elderly mother then moving in. But she

ultimately changed her mind. The Applicant would like to pay off these loans with the sums received from the sale of the Property. The Applicant also spoke about various health concerns he has for himself which make him feel more vulnerable about his job security.

[7] Mr Boyd has a mortgage on the Property he himself lives in with his family and would like to sell this Property to pay that mortgage off. He is a landlord to two properties which are both managed by a letting agent. He wished to sell one property and he was originally told that the Respondent would not be averse to receiving a notice to leave as she was actually keen to see if she could get a "*council house*". Once the notice was served, the Respondent was then said to have changed her mind, but the Applicant considered that the process had already started and he agreed with the suggestion that by that point he was in too deep and felt compelled to see it through. He explained that the Respondent had asked for an "*extension*" before moving out of the Property which the Applicant agreed to. The Respondent then did not move out of the Property. The Applicant felt somewhat tricked by this, perhaps understandably. The Applicant has been informed that there is not much of a market for selling properties like the Property in question with a sitting tenant.

[8] The Tribunal then heard from Ms Elaine Boyd.

### **Ms Elaine Boyd**

[9] Ms Boyd's evidence was in relative short compass and more or less served simply to corroborate the Applicant's account of the situation. The Tribunal then heard from the Respondent.

### **The Respondent**

[10] The Respondent lives in the Property with her nine-year-old daughter. She works part time for the Scottish Fire Service in payroll. Her work is fully remote. The Respondent is receiving treatment for breast cancer. Her diagnosis turned her life upside down. Her treatment is going well but is not complete. The Respondent requires ongoing hospital visits and she has required surgery.

[11] The Respondent lives 200 metres from her daughter's school. Her daughter is in primary school. The local high school her daughter hopes to go to is also very close by. The Respondent is friendly with her neighbours and is clearly well established and comfortable in the Property. She has lived there since 1 June 2015 and it is the only home her daughter has ever known. Her monthly rent is £700.00 a month. She could perhaps budget up to £800.00 a month. The Respondent was somewhat vague about why she

could not afford to rent another Property in the area. She explained that she has examined her entitlements to state benefits which have been fully maximised. She was somewhat vague about her efforts made to secure other private lets in the area and what the going rent might be for such properties. There was a reference previously made to the Respondent having savings, but she highlighted to the Tribunal that she no longer had any savings.

[12] The Respondent explained that she has no family support in her area but on closer questioning acknowledged that her family actually just live in Blantyre which is the neighbouring town to Motherwell. The Respondent also explained that the local authority is aware of her situation and she has been told to phone them with the outcome of the Hearing. The Respondent was adamant that she had been told she would be housed in temporary accommodation with her daughter which could be in any location in the local authority area. This caused the Respondent anxiety.

[13] Having heard evidence and having considered the documentation, the Tribunal made the following findings in fact.

### **Findings in Fact**

1. *The Applicant acquired the landlord's interest in a let of the property to the Respondent under a Private Residential Tenancy Agreement within the meaning of the Act which commenced on 1 June 2015.*
2. *The Applicant competently served a notice to quit and notice under section 33 of the Act on 15 May 2024 stating that the Applicant required possession of the Property as of 30 July 2024.*
3. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003.*
4. *The Respondent lives in the Property with her 9-year-old daughter. The Property has not been adapted for the Respondent's health needs. The Respondent has been receiving treatment for breast cancer. The Property is very conveniently located for the Respondent's daughter's current primary school and intended secondary school.*
5. *The Applicant did not intend to be a landlord. He effectively became landlord by virtue of a form of inheritance from his parents who had operated as landlords.*
6. *The Applicant wishes to sell the Property and use the funds realised to pay off his own mortgage on the home he lives in with his wife and son and pay off personal debts. The Applicant is employed off-shore in the North Sea and is anxious about the security of his job and his financial situation if he were to be made redundant.*

7. *The Respondent is receiving support from the local authority who are aware of her situation.*

## **Reasons for Decision**

[14] Having made the above findings in fact, the Tribunal considered that the contractual tenancy had been competently ended under Section 33 of the Act. As stated, there was no objection taken to the competency of the notices. There was also no reason to doubt that the Applicant wanted to sell the Property. The Respondent did not seek to challenge this at all during the Hearing. The Tribunal thereafter proceeded to consider the “*reasonableness*” of granting the order.

## **The Reasonableness**

[15] In considering the reasonableness or otherwise of making an Eviction Order, the Tribunal took a common-sense approach, balancing the competing interests. The Tribunal proceeded on the basis that something could be reasonable while only being one of many other options which might also be reasonable. The Tribunal noted that there was no presumption that the Applicant’s proprietary rights trumped the Respondent’s occupancy rights. The Tribunal also notes that reasonableness is to be considered as at the date of the Hearing

[16] The Tribunal considered the arguments in favour of granting the order. The Tribunal concluded that it was certainly reasonable for the Applicant to wish to sell the Property as part of reasonable and prudent financial planning. The Applicant had not intended to be a landlord and appeared to have almost inherited the landlord’s interest in the Property from his parents. It was certainly not reasonable to expect that he should be forced in these circumstances to continue on in his parents’ shoes. One does wonder of course, why his mother wouldn’t simply have wanted to sell the Property herself rather than pass it on to her son (the Applicant) to do that.

[17] The Tribunal well understood the Respondent’s reasons as to why it might not be considered reasonable to grant the order. The Tribunal noted that the Respondent was worried about the future and had nowhere else to go. She had health issues and there was a letter of support from the Respondent’s GP in the papers. The Tribunal accepted that there would be some obvious inconvenience to the Respondent should she require to vacate the Property.

[18] The Tribunal of course noted that the Respondent was clearly comfortable in the Property and that it was very handy for her daughter’s school. She also got on well with the neighbours. She had lived there a long time and was obviously very well settled.

[19] The Tribunal conducted an exercise of weighing these competing factors in the balance. But there were certain factors which the Tribunal considered tipped the scales in favour of granting the order. The Applicant should not be expected to be forced to operate as a landlord if he effectively inherited the Property and does not want to be the landlord. His reasons for this decision are legitimate and make perfect sense. The Tribunal were also left unsure about why exactly the Respondent could not simply rent another Property in the area. There was little evidence that either highlighted how this would be unaffordable for the Respondent or demonstrated the Respondent having made reasonable efforts to find somewhere in the area.

[20] The Tribunal concluded that this resulted in the arguments for it being reasonable to make the order outweighing the reasons against. The Tribunal then considered whether the date by which any order could be enforced ought to be delayed. The Tribunal took the view that given the time of year, the Tribunal would have allowed an extra month from the date of the Hearing, and the Tribunal considers that it remains reasonable to provide that the order may not be enforced until 2 February 2026. This will hopefully take account of the festive season when the local authority may be running something of a skeleton service. It will also allow some more time to see if the local authority (or the Respondent herself) can find something suitable in the area without the need for temporary accommodation.

### **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.

**Andrew McLaughlin**

**Legal Member/Chair**

**15 December 2025**

**Date**