



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/25/1561

Re: Property at 1 Thompson Avenue, Carnoustie, DD7 7LP (“the Property”)

Parties:

Mr Mohammed Ashraf, 18 Tommy Armour Place, Carnoustie, DD7 7LP (“the Applicant”)

Miss Jemma Oliver formerly known as Jemma Hudson, Mr Reece Coull, 1 Thompson Avenue, Carnoustie, DD7 7LP (“the Respondents”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Ann Moore (Ordinary Member)

Decision

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 11 April 2025 the applicant seeks an order for eviction relying on section 33 of the Housing (Scotland) Act 1988.
2. The applicant 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
3. A case management discussion (“cmd”) was scheduled to take place by teleconference on 13 January 2026.
 4. Prior to the cmd the applicant’s representative submitted a Homeowners report and correspondence instructing an estate agent to market the property for sale.

Case management discussion (“cmd”) – teleconference- 13 January 2026

5. The applicant was represented by Mr Webster, Letting Agent, Downfield Property. Both respondents attended on their own behalf. Ms Oliver stated that since the tenancy agreement had commenced her surname had changed from Hudson to Oliver.
6. Mr Webster sought an order for eviction relying on section 33. He stated that the applicant had decided to sell the property as part of his retirement planning. He stated that relations between the parties had broken down in the past year.
7. Mr Oliver spoke on behalf of both respondents. She read out a prepared submission .She stated that the application was not opposed. She stated that the property had been extensively affected by repairs issues which had impacted both respondents’ physical and mental health. Both respondents stated that they suffered from disabilities. Ms Oliver stated that they had sought advice from the local authority and have an active application for alternative housing.

Findings in fact and law

8. The parties entered into a short assured tenancy agreement with a commencement date of 20 June 2014. An AT5 was served on the respondents prior to the commencement of the tenancy.
9. A valid notice to quit and section 33 notice dated 14 January 2025 were served on the respondents.
10. The respondents do not seek to oppose the present application.
11. The applicant intends to sell the property as part of his retirement planning.

12. The respondents have an active application for alternative accommodation with Angus Council.

Reasons for the decision

13. 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.

14. 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.

15. 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.

16. 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.

17. 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 respondents moved into the property. A notice to quit and notice in terms of section 33 were served on 14 January 2025. The notice to quit had the effect of preventing tacit relocation from operating. The section 33 notice provided the respondents with notice that the applicant required possession of the house.
18. 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.
19. The Tribunal took into account the oral and written submissions on behalf of the applicant.
20. The Tribunal gave significant weight to the fact that the respondents did not oppose an order for eviction being granted and made no objection to the reasonableness of the order being granted.
21. The Tribunal accepted Mr Webster's unopposed submissions that the applicant intended to sell the property as part of his retirement planning. This was supported by the homeowner's report and correspondence with estate agents that had been submitted.
22. The Tribunal took into account the parties' personal circumstances as set out in their oral submissions and gave weight to the fact that relations between the parties had deteriorated.
23. Taking the foregoing factors into account the Tribunal determined that on balance it was reasonable to grant an order.

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

13 January 2026
Date
