



**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/25/3397

**Re: Property at 76 Queen Margaret Drive, Glenrothes, Fife, KY7 4BN ("the
Property")**

Parties:

**Parker Housing Limited, Caledonian House, Links Road, Leven, KY8 4HS ("the
Applicant")**

**Mr John Nelson, 76 Queen Margaret Drive, Glenrothes, Fife, KY7 4BN and Mrs
Michelle Nelson, 45 Winifred Crescent, Kirkcaldy, KY2 5SY ("the Respondents")**

Tribunal Members:

Gillian Buchanan (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondents)

At the Case Management Discussion ("CMD"), which took place by telephone conference on 9 December 2025, the Applicant was represented by Mr Dylan Ackerley of Lindsays LLP, Edinburgh. The Respondents were neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondents having received notice of the CMD and determined to proceed in the absence of the Respondents in terms of Rule 29.

The CMD was also in respect of the related cases bearing references FTS/HPC/EV/25/3395 and FTS/HPC/CV/25/2431.

Prior to the CMD the Tribunal received from the Applicant's representative an email dated 25 November 2025 with written representations.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that –**

Background

The Tribunal noted the following background –

- i. The Applicant is the heritable proprietor of the Property and is in right of the landlord's interest in the tenancy of the Property described below.
- ii. The Applicant's predecessor in title leased the Property to the Respondents in terms of a Short Assured Tenancy Agreement ("the SAT") that commenced on 6 November 2014.
- iii. The initial term of the tenancy was for the period to 6 May 2015 and the tenancy has continued thereafter on a month to month basis per the SAT.
- iv. The rent payable in terms of the SAT was originally agreed to be £550 per month.
- v. A deposit was also paid in terms of the SAT being £550.
- vi. On 23 May 2025, the Applicant's agent served on the Respondents by recorded delivery post a Notice to Quit, a Notice under Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") and a Notice under Section 18 of the 1988 Act requiring the Respondents remove from the Property by 6 August 2025.
- vii. A pre-action letter was sent on 23 May 2025 to comply with the Scottish Government's protocols.
- viii. As at 23 May 2025 the rent arrears were stated to be £3,522.64.
- ix. The Applicant's agent also served on Fife Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the outset of the CMD the Tribunal shared the Sheriff Officers' report following service of the case papers on the Respondents and noted, in particular, the Second Respondent's address and that she has apparently not been living in the Property for some years. This information was not known to Mr Ackerley.

Thereafter at the CMD Mr Ackerley made the following oral representations relative to all three applications and in response to questions from the Tribunal:-

- i. The application FTS/HPC/CV/25/2431 erroneously refers to the tenancy being a Private Residential Tenancy when it is a Short Assured Tenancy.
- ii. The original rent of £550 per month was increased to £600 per month with effect from August 2024. This was done by means of the Applicant serving the required Form AT2 on the Respondents on 27 May 2024 stating the increase would take effect from 6 August 2024.
- iii. More recently the rent has been increased to £650 per month from 5 September 2025.
- iv. The current rent arrears are £4064.31.
- v. The deposit previously paid is still held with an approved scheme.
- vi. There is no provision for charging interest on arrears due in terms of the SAT and Mr Ackerley invited the Tribunal to exercise its discretion in the Applicant's favour.
- vii. The ongoing payments of £550 per month received towards rent due are payments of Universal Credit made directly to the Applicant. There continues to be an ongoing shortfall in the rent each month plus historic arrears dating back to the period from around January 2021 to June 2021.
- viii. Mr Ackerley had no information on the Respondents' circumstances.
- ix. There has been no engagement from the Respondents in response to communications sent.
- x. There has been no contact from any third party relative to any alternative accommodation for the Respondents.
- xi. With regard to access to the Property the Applicant's Letting Agent had sought to arrange an Electrical Installation Condition Report ("EICR") and had been contacting the Respondents for access between November 2023 and May 2024. On three occasions access was arranged but not allowed. When access was

secured the contractor was unable to conduct the required inspection due to the clutter in the Property. The Applicant cannot therefore comply with regulatory requirements.

- xii. Mr Ackerley asked the Tribunal to grant an eviction order in this application which proceeds on Section 33 of the 1988 Act and also in FTS/HPC/EV/25/3395 which proceeds on the basis of Section 18 of the 1988 Act and Grounds 11 and 12 of Schedule 5 thereof relative to the rent arrears accrued.

The Tribunal adjourned to consider the position.

Findings in Fact

- i. The Applicant is the heritable proprietor of the Property and is in right of the landlord's interest in the tenancy of the Property described below.
- ii. The Applicant's predecessor in title leased the Property to the Respondents in terms of the SAT that commenced on 6 November 2014.
- iii. The initial term of the tenancy was for the period to 6 May 2015 and the tenancy has continued thereafter on a month to month basis per the SAT.
- iv. The rent payable in terms of the SAT was originally agreed to be £550 per month.
- v. The original rent of £550 per month was increased to £600 per month with effect from August 2024. This was done by means of the Applicant serving the required Form AT2 on the Respondents on 27 May 2024 stating the increase would take effect from 6 August 2024.
- vi. More recently the rent has been increased to £650 per month from 5 September 2025.
- vii. The current rent arrears are £4061.31.
- viii. A deposit was also paid in terms of the SAT being £550.
- ix. The deposit previously paid is still held with an approved scheme.
- x. There is no provision for charging interest on arrears due in terms of the SAT.
- xi. On 23 May 2025, the Applicant's agent served on the Respondents by recorded delivery post a Notice to Quit, a Notice under Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") and a Notice under Section 18 of the 1988 Act requiring the Respondents remove from the Property by 6 August 2025.
- xii. A pre-action letter was sent on 23 May 2025 to comply with the Scottish Government's protocols.
- xiii. As at 23 May 2025 the rent arrears were stated to be £3,522.64.
- xiv. The ongoing payments of £550 per month received towards rent due are payments of Universal Credit made directly to the Applicant.
- xv. There continues to be an ongoing shortfall in the rent each month plus historic arrears dating back to the period from around January 2021 to June 2021.
- xvi. There has been no engagement from the Respondents in response to communications sent.
- xvii. There has been no contact from any third party relative to any alternative accommodation for the Respondents.
- xviii. The Applicant has struggled to gain access to the Property for a contractor to prepare an EICR and, when eventually accessed, the required inspection could not be carried out due to the clutter within the Property.
- xix. The Applicant's agent has served on Fife Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

Reasons for Decision

The Respondents did not submit any representations to the Tribunal and did not attend the CMD despite the SAT being longstanding. The factual background narrated by the Applicant

within the application papers and orally on its behalf at the CMD was not challenged and was therefore accepted by the Tribunal.

This application proceeds upon Section 33 of the 1988 Act.

Section 33 states:-

"Recovery of possession on termination of a short assured tenancy.

(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 ish;

(b) that tacit relocation is not operating;

(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."

Whilst the Second Respondent appears to have long since removed from the Property her name remains on the SAT and she is bound by its terms.

The Tribunal is satisfied that the SAT has reached its ish and that tacit relocation is not operating.

The Tribunal is also satisfied that the Applicant has given proper notice to the Respondents that it requires possession of the Property having regard to the terms of Section 33(2).

The Tribunal requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 1(e). In the absence of any challenge by or engagement from the Respondents the Tribunal accepted the rent arrears due and the ongoing failure to pay the rent due in full each month as a result of which the arrears will only increase month on month. The Tribunal also noted and accepted the difficulties accessing the Property for compliance inspections.

In the circumstances the Tribunal determined it is reasonable to issue an eviction order in this application and made an order to that effect.

Decision

The Tribunal grants an eviction order against the Respondents in favour of the Applicant.

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.

Gillian Buchanan

Legal Member/Chair

9 December 2025
Date