



**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/25/1848

Re: Property at 23 Stormylandway, Barrhead, G78 1PT (“the Property”)

Parties:

Ms Louise Irvine, 24 Preston Terrace, Linlithgow, EH49 6HU (“the Applicant”)

Mr Donald Fox, 23 Stormylandway, Barrhead, G78 1PT (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

Background

1. By application, dated 28 April 2025 and received by the Tribunal on 29 April 2025, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy.
2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, running from 15 April 2015 until 14 April 2016, a Form AT5 Notice, and copies of a Notice under Section 33 of the 1988 Act and a Notice to Quit, both dated 12 February 2025. The Notice to Quit required the Respondent to vacate the Property by 14 April 2024 and the Section 33 Notice required him to vacate by 14 April 2025.
3. On 17 November 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 8 December 2025. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 8 December 2025. The Applicant was presented. The Respondent was not present or represented.
5. The Tribunal advised the Applicant that it regarded an error in the Notice to Quit of 12 February 2025, which stated that the Respondent was required to vacate the Property no later than 14 April 2024 instead of 14 April 2025 was a minor typographical error which did not invalidate the Notice to Quit, as it could not have misled the Respondent, who received the Section 33 Notice, with the correct date, at exactly the same time. Following the reasoning set out in *Ene v Tocher* [2021] UT36, the notices, taken together, gave sufficient notice to the Respondent that the tenancy would be terminated on 14 April 2025. A reasonable recipient of the Notice to Quit would have understood its true intention and would not have been misled.
6. The Applicant told the Tribunal that she had originally let out the Property when she went to live with her then partner. The relationship later broke down, and she wished to move back into the Property, which is the only one she owns. The Respondent has been a good tenant, and, to keep it affordable for him, she had not increased the rent at any time during the 10 years of the tenancy. In a conversation with him, he had told her that he had approached the local authority to be rehoused, but had been advised that they would not assist him until an Order for Possession was made and that, if he left the Property before then, he would be regarded as having made himself voluntarily homeless. The Applicant understood that the Respondent lives on his own in the Property and was not aware of any disabilities or vulnerabilities. She pointed out that the Property is a top flat, so there could be no significant mobility issues. The Applicant has been in rented property for three years and wishes to move back into the Property.

Reasons for Decision

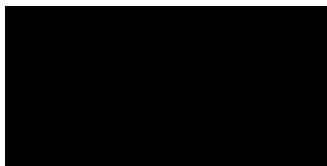
7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
8. Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its ish, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.
9. The Tribunal was satisfied that the tenancy had reached its ish, that, by service of the Notice to Quit, tacit relocation was no longer operating, that

there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given. The remaining matter for the Tribunal to consider was, therefore, whether it would be reasonable to issue an Order for Possession.

10. In arriving at its decision as to whether it would be reasonable to make an Order for Possession, the Tribunal noted that the Applicant had lived there before the tenancy, that due to a relationship breakdown she had to move out of the property she had shared with her then partner, that she does not own any other property and that she has been living in rented accommodation herself, pending recovery of possession of the Property. The Tribunal also noted that the Respondent did not make any written representations to the Tribunal and chose not to be present or represented at the Case Management Discussion, so had provided no information regarding his personal circumstances that he would wish the Tribunal to consider in arriving at its Decision.
11. Having considered all the evidence before it, the Tribunal decided that it would be reasonable to make an Order for Possession.
12. 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.



Legal Member/Chair

14 January 2026
Date