



**Decision to Stop Assisting: Notification of decision under Section 28C(9) of
the Housing (Scotland) Act 2006 (“The Act”)**

Ref FTS/HPC/RE/25/2554

HOUSE AT 64 Drumgray Avenue, Uddingston, Glasgow, G71 7FD

TENANT Mr John Prete

**LANDLORD Mr James Ritchie, Suite 4102 Charlotte House, Queens Dock
Business Centre, Liverpool, L1 0BG**

NAME OF AUTHORISED PERSON

**Stephen Dunne, Gas Engineer /Director, Gas Assured Scotland Ltd. 112
Grayling Rd, Motherwell ML1 4ZE**

**John Stirling, Director, Property Contractor, M&S Contracts Ltd, Unit 3, Hunter
Road, Duchess Industrial Estate, Rutherglen, Glasgow, G73 1LB**

I have reviewed the application received on 11 June 2025 and all information subsequently received and have made a decision to stop assisting the landlord, as I am entitled to do at any time under Section 28C(9) of the Act. This decision has been made for the following reason(s):

Section 28A of the Housing (Scotland) 2006 was amended to give the landlord an avenue to apply to the First-tier Tribunal for Scotland (Housing and Property Chamber) for assistance in exercising his right of entry if he is unable to gain access to the property.

First-tier Tribunal for Scotland (Housing and Property Chamber) Issued decisions under Sections 51 & 71 of the Private Housing (Tenancies) (Scotland) Act 2016 Chamber Ref: FTS/HPC/CV/24/4625 & FTS/HPC/EV/24/4624

That decision determined there was no Landlord/Tenant relationship between the parties, see extract below:

At common law, one of the cardinal elements of a lease is that parties must have reached consensus in idem or agreement on the same thing. There was no agreement between the parties that they would enter into a landlord/tenant relationship in respect of the Property. There was no agreement between the parties on the terms of the tenancy agreement, including the rent. The Tribunal accepted the unchallenged evidence of the Respondent that he believed the Property belonged to Mrs Prete, that

there was never any discussion with him from the Applicant or anyone else about entering into a private residential tenancy, that the Respondent did not consider himself to be a tenant, and that the Respondent had no knowledge of any purported tenancy.

The Private Housing (Tenancies) (Scotland) Act 2016 provides at section 1 that a tenancy is a private residential tenancy where—

(a) the tenancy is one under which a property is let to an individual (“the tenant”) as a separate dwelling,

(b) the tenant occupies the property (or any part of it) as the tenant's only or principal home ... in this case, the requirements of section 1(b) are met in that the Respondent occupies the Property as his only or principal home, but the requirements of section 1(a) are not met, as, if there was no meeting of minds, or consensus in idem, the Property could not be considered to have been let to the Respondent.

In light of the decisions (FTS/HPC/CV/24/4625 & FTS/HPC/EV/24/4624) the applicant cannot be considered a landlord in respect of this property. Should any appeal change the decisions the Applicant may reapply for assistance.

In terms of Section 28A(8) of the Act this decision of the member is final.

Elizabeth Dickson

E Dickson
Member
First-tier Tribunal for Scotland (Housing and Property Chamber)
15th February 2026