



**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/25/1947**

**Re: Property at Flat 2/2, 5 Mountgarrie Path, Glasgow, G51 4NS ("the Property")**

**Parties:**

**Mrs Susan Thom, Rose Cottage, Whitecairns, Aberdeen, AB23 8XA ("the Applicant")**

**Miss Cherlie Holland, Flat 2/2, 5 Mountgarrie Path, Glasgow, G51 4NS ("the Respondent")**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Frances Wood (Ordinary Member)**

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the provisions of section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") are met in this case.

The Tribunal therefore made an eviction order under section 33 of the 1988 Act.

**Background**

- 1 This is an application for an eviction order under section 33 of the 1988 Act and rule 66 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 ("the Rules"). The Applicant sought an eviction order on the grounds that the short assured tenancy between the parties had terminated.
- 2 The application was accepted and referred to a case management discussion ("CMD") to take place by teleconference on 3 February 2026. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the

Rules. Said notice was served upon the Respondent by sheriff officers on 12 December 2025.

- 3 Both parties were invited to make written representations in advance of the CMD. On 26 January 2026 the Tribunal received written submissions from the Applicant's representative, Aberdein Considine. No written representations were received from the Respondent.

### **The CMD**

- 4 The CMD took place by teleconference on 3 February 2026. Ms Elaine Elder of Aberdein Considine represented the Applicant. The Respondent also joined the call.
- 5 The Tribunal had the following documents before it:-
  - (i) Form E application form;
  - (ii) Title sheet confirming the Applicant's ownership of the property and proof of landlord registration;
  - (iii) Short assured tenancy agreement and Form AT5;
  - (iv) Notice to quit and notice under section 33 of the 1988 Act together with evidence of service upon the Respondent;
  - (v) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 together with evidence of service upon the local authority;
  - (vi) Statement of David and Susan Thom;
  - (vii) Copy letter from the Respondent to the Applicant's letting agent; and
  - (viii) The Applicant's written submissions dated 26 January 2026.
- 6 The Tribunal heard submissions from the parties on the application. The following is a summary of the key elements of the submissions.
- 7 As a preliminary matter, Ms Elder advised that Mr David Thom, the joint applicant, passed away in January 2026. The Tribunal therefore agreed to remove him as a party under Rule 32 of the Rules. Ms Elder further noted that the Tribunal had previously queried the service of the statutory notices upon the Respondent. Miss Holland confirmed that she had received the notices.
- 8 Ms Elder confirmed that the Applicant sought an eviction order under section 33 of the 1988 Act. The Respondent had been served with a notice to quit and notice under section 33(1)(d) of the 1988 Act. The tenancy had terminated at the ish and tacit relocation was no longer operating. In terms of reasonableness, Ms Elder advised that the application had been made due to a deterioration in the health of the late Mr Thom. He had been hospitalised on numerous occasions and left unable to work. The Applicant and her late husband required to sell the property to supplement their income. The property formed part of their pension profile. Following the death of Mr Thom the situation has become more pressing for the Applicant. She is now solely responsible for her living costs and financial security. The sale of the property is essential for her financial stability. There is a mortgage over the property with

around £52,000 outstanding. The Applicant does not own any other properties. She resides in rental accommodation. The notice to quit expired at the end of February 2025 however the Applicant had given the Respondent a further two months to vacate the property. Unfortunately, the Respondent has been unable to secure alternative accommodation. Ms Elder submitted it was reasonable in all the circumstances of the case for an eviction order to be granted.

- 9 The Respondent confirmed that she has been applying for housing with local housing associations but has so far been unsuccessful. She cannot afford a private let. She is unemployed and in receipt of benefits, having previously given up work to care for her late mother. She resides in the property with her 14-year-old daughter who is in full time education. The Respondent has spoken with the local authority. The local authority has advised her not to leave the property without an eviction order, as she would make herself intentionally homeless. The Respondent does not object to the eviction order. She cannot progress her application with the local authority until the order is granted. The local authority has closed her case and will reopen her application once the outcome of the CMD is known.
- 10 The Tribunal adjourned the CMD to deliberate, at which point the parties left the call, before resuming the CMD and confirming the outcome.

### **Findings in fact**

- 11 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in accordance with a short assured tenancy agreement, the term of which was 27 April 2015 to 28 October 2015 and monthly thereafter.
- 12 The Applicant has sent the Respondent a notice to quit terminating the short assured tenancy between the parties as at 28 February 2025. Tacit relocation is no longer operating.
- 13 The Applicant has sent the Respondent a notice under section 33(1)(d) of the 1988 Act stating that she required possession of the house as of 28 February 2025.
- 14 The Applicant's husband was diagnosed with a serious illness in or around April 2024, which led to a significant deterioration in his health. He was unable to work. The Applicant's husband passed away in January 2026.
- 15 The Applicant requires to sell the property to supplement her income. The Applicant is now solely responsible for managing her living costs and long-term financial security. The Applicant requires the sale proceeds to supplement her income and support her in retirement.
- 16 The Applicant does not own any other properties. The Applicant currently resides in rental accommodation.

- 17 The Applicant has provided the Respondent with additional time to secure alternative accommodation prior to raising these proceedings.
- 18 The Respondent has applied to local housing associations for rehousing. The Respondent has so far been unsuccessful.
- 19 The Respondent has applied to be rehoused by the local authority. The local authority will not entertain the Respondent's application until an eviction order is granted by the Tribunal.
- 20 The Respondent cannot afford a private let. The Respondent is unemployed and in receipt of benefits.
- 21 The Respondent resides in the property with her 14-year-old daughter. The Respondent's daughter is in full time education.
- 22 The Respondent does not object to the eviction order.

### **Reasons for decision**

- 23 The Tribunal considered all documentary evidence and submissions in determining whether section 33 of the 1988 Act is met in this case. The Tribunal was satisfied it had sufficient information to reach a decision on the application in the absence of a hearing and that to do so would not be contrary to the interests of the parties. The Respondent did not oppose the application and there were no issues to be resolved that would require a hearing to be fixed.
- 24 In this case the Applicant seeks to recover possession on the basis that the short assured tenancy between the parties has been terminated. Section 32 of the 1988 Act sets out the criteria for a short assured tenancy:-

*"(1) A short assured tenancy is an assured tenancy—*

*(a) which is for a term of not less than six months; and  
(b) in respect of which a notice is served as mentioned in subsection (2) below.*

*(2) The notice referred to in subsection (1)(b) above is one which—*

*(a) is in such form as may be prescribed;  
(b) is served before the creation of the assured tenancy;  
(c) is served by the person who is to be the landlord under the assured tenancy (or, where there are to be joint landlords under the tenancy, is served by a person who is to be one of them) on the person who is to be the tenant under that tenancy; and  
(d) states that the assured tenancy to which it relates is to be a short assured tenancy."*

25 The Tribunal was satisfied, having considered the terms of the tenancy agreement and Form AT5, that the tenancy between the parties is a short assured tenancy within the definition of section 32 of the 1988 Act.

26 The Tribunal went on to consider section 33 of the 1988 Act:-

*“(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.*

*(2) The period of notice to be given under subsection (1)(d) above shall be—*

*(i) if the terms of the tenancy provide, in relation to such notice, for a period of more than two months, that period;*

*(ii) in any other case, two months.”*

27 Having considered the documents before it, the Tribunal determined that the Applicant had given the Respondent a notice to quit that terminated the tenancy at an ish date, thereby preventing tacit relocation from operating. The Tribunal further determined that the Applicant had given the Respondent notice that she required possession of the house in accordance with the requirements of section 33(1)(d) of the 1988 Act.

28 The Tribunal therefore determined that sections 33(1)(a), (b) and (d) of the 1988 Act were met and went on to consider whether it was reasonable to make an eviction order in this case.

29 The Tribunal considered the Applicant's property rights as the heritable owner. The Tribunal also took into account her reasons for selling the property, as reflected in the Tribunal's findings in fact, which were particularly compelling. Having recently lost her husband, she was urgently requires to sell the property to provide her with financial stability as she approaches retirement. The Tribunal gave these factors significant weight.

30 The Tribunal carefully considered the Respondent's circumstances. Whilst the risk of homelessness to the Respondent and her daughter was a cause for concern, ultimately the Respondent did not oppose the application. She was actively pursuing a secure tenancy in the social rented sector and the Tribunal accepted that the eviction order would assist her in this process by prioritising her application.

31 Accordingly, having carefully considered all the circumstances of this case as they pertain to reasonableness, the Tribunal concluded that the balance weighed in favour of making an eviction order. The Tribunal therefore

determined that the provisions of section 33 of the 1988 Act have been met and made an eviction order under section 33 of the 1988 Act.

32 The decision of the Tribunal 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.**

## **Ruth O'Hare**

5<sup>th</sup> February 2026

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Legal Member/Chair

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Date