



**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/25/2161

Re: Property at 91 North Seton Park, Port Seton, EH32 0BA (“the Property”)

Parties:

Ms Susan McDowall, Of Merlin, 42 High Street, Aberlady, East Lothian, EH32 0RE (“the Applicant”)

Miss Gaye Deniz, 91 North Seton Park, Port Seton, EH32 0BA (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it should grant an order for recovery of possession.

Background

1. An application was received under rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession of the property under a short assured tenancy granted by the Applicants to the Respondents.

2. The application contained :-
 - a. A copy of the tenancy agreement,
 - b. a copy of the AT5,

- c. a copy of the Section 33 Notice,
 - d. a copy of the Notice to Quit,
 - e. evidence of service,
 - f. Section 11 Notice, and
 - g. Title deeds
3. The case called for a case management discussion on 26 January 2026. Appearing were the Applicant's agent, Miss Rice, Harper MacLeod LLP. There was no appearance by the Respondent. The respondent had been served with notice of this application on 1 December 2025. The tribunal were content to proceed with the application in their absence.

Case Management Discussion

4. The Applicant's agent was moved for an eviction order to be granted. They had submitted the tenancy agreement, AT5, Notice to Quit, Section 33 Notice, Section 11 notice and evidence of service. The applicant was 72 years old. She wished to realise her assets. She suffers from various health conditions which affect her daily life. She lives alone. She cares for an elderly friend. She was no longer able to manage the lease of the property in addition to her own health issues and caring for her friend. She also plans to move to England in the long term to stay with her family. Her long-term partner had also recently passed away, which had affected her finances, and she also wished to sell the property in order that she could realise this asset to be used to supplement her income and outgoings. They advised that they had received correspondence from the Citizens Advice Bureau about the recovery application, they had not indicated that their client the respondent, was opposing it, only that she wanted to remove certain items from the garden when she left.

Findings in Fact

5. We found the following facts established:-
6. That there was in place a short assured tenancy.
7. The property was 91 North Seton Park, Port Seton.
8. That there was a tenancy agreement between the Applicant and the Respondent in respect of the Property.
9. The landlord was Susan McDowall. She was the heritable proprietor of the property.
10. The tenant was Gaye Deniz.
11. The tenancy commenced on 30 August 2013 until 7 March 2014 and continued month to month thereafter.
12. The AT5 Form was in the prescribed format and was dated 29 July and 30 August 2013.
13. The notice to quit contained the prescribed information and was dated 31 January 2025; it sought vacant possession as of 7 April 2025. It provided more than 2 months' notice that vacant possession was sought. There was evidence of service of the notice on 1 February 2025. The notice to quit terminated the tenancy on an *ish* date.
14. The section 33 notice contained the prescribed information and was dated 31 January 2025; it sought vacant possession as of 7 April 2025. It provided more than 2 months' notice that vacant possession was sought. There was evidence of service of the notice on 1 February 2025.
15. There was a section 11 notice addressed to the local authority.

16. The landlord had health conditions and cared for a friend. The landlord did not wish to continue managing a property, given her health conditions and caring duties. She also intended to sell the property in order to realise the assets and use the money, and to move to England in the longer term.

Reasons for Decision

17. Section 33 of the 1988 Act requires the tribunal to grant an order for possession under a short assured tenancy where: the tenancy has reached its iish; tacit relocation is not operating; the landlord has given notice to the tenant that they require possession of the house; and where it is reasonable to do so.

18. We were satisfied that a short assured tenancy had been created. We were satisfied with the terms of the section 33 notice and the notice to quit. We were also satisfied that these notices had been served on the Respondent. We were satisfied that the tenancy has reached its iish; tacit relocation is not operating; and the landlord has given notice to the tenant that they require possession of the house.

19. Having regard to the question of reasonableness, we have no notice that the Respondent objected to the order being granted. We consider it would be reasonable to grant the order for eviction. The landlord is in her 70s. She had health conditions and cares for a friend. The landlord does not wish to continue managing a property, given her health conditions and caring duties. Her long-time partner died recently, and she also intends to sell the property in order to realise the assets and use the money, and to move to England in the longer term. We place considerable weight on these reasons to grant the order. Against doing so, we note that the tenant has been a tenant for a long time, and we presume has been a good tenant. While we consider that these would be reasons weighing against the order being granted, on balance, we consider that the landlord has compelling reasons for the order to be granted. Given all of

this information, we consider that it would be reasonable to grant an Order for eviction.

20. Accordingly, we would confirm that we are satisfied that all of the requirements of section 33 had been met and that it would be reasonable to grant an order for eviction under section 33 of the Housing (Scotland) Act 1988.

Decision

21. We grant an order in favour of the Applicant against the Respondent for recovery of possession of the property.

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.

Melanie Barbour

Legal Member/Chair

Date: 26 January 2026