



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/25/3103

Re: Property at 159 Simon Crescent, Methilhill, Methil, KY8 2DT (“the Property”)

Parties:

Mr Iain Wallace Smart, 47 Glenlyon Road, Leven, Fife, KY8 4AB (“the Applicant”)

Mr Calum MacKenzie, 159 Simon Crescent, Methilhill, Methil, KY8 2DT (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr T Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession should be granted.

Background

1. This is a Rule 66 application whereby the Applicant is seeking an order for possession in terms of section 33 of the Housing (Scotland) Act 1988 (“the Act”). The Applicant representative lodged a short assured tenancy agreement commencing on 20th March 2014 to 20th March 2015, and monthly thereafter, a Form AT5, a signing page of a tenancy agreement signed on 20th September 2013 and information pertaining thereto, section 11 notice with evidence of service, notice to quit and section 33 notice with evidence of service, tenancy deposit scheme information confirming a tenancy start date of 20th September 2013, and submissions on reasonableness.
2. The Application and notification of a Case Management Discussion were served on the Respondent by Sheriff Officer on 7th January 2026.

Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 18th February 2026. The Applicant was not in attendance and was represented by Mrs Purves, Solicitor. The Respondent was not in attendance.

4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
5. Mrs Purves said the Applicant is seeking an order for possession. There has been no recent contact from the Respondent. The Applicant has applied to the Tribunal for assistance with right of entry, and a visit took place on 14th January 2026, with a Tribunal member present, but access was not provided.
6. Mrs Purves said the Applicant wishes to sell the Property. The Applicant had two properties to let, but the other property is now vacant and ready for sale. The Applicant suffered a heart attack a year ago and no longer wishes to be a landlord. Rent has not been paid since December 2024, and there are rent arrears of around £6400. The Respondent has failed to allow contractors access for certification purposes, and has cancelled contractors. The Applicant has attended at the Property multiple times but has been unable to discuss matters with the Respondent or gain entry. The Applicant is suffering from stress due to the situation, and this is impacting upon his health. The Applicant is concerned about the state of the Property. The blinds at the Property are never opened.
7. Responding to questions from the Tribunal, Mrs Purves said the Respondent is believed to live alone in the Property. He is believed to be in employment. There are no known disabilities. Asked whether it was certain that the Respondent still lives there, Mrs Purves said a neighbour had reported that the police were called out by a family member of the Respondent recently, and bins for the Property are put out to be emptied.
8. Mrs Purves said the Applicant had been unable to verify that the Recorded Delivery of the notices had been successful, as the tracking information on the Royal Mail tracking page had not been updated since the item was posted in April 2025. The paperwork was not returned to the Applicant representative, and no failure in delivery has been noted on the website.

Findings in Fact and Law

9.
 - (i) Parties entered into a short assured tenancy agreement commencing on 20th September 2013.
 - (ii) Parties entered into a further short assured tenancy agreement commencing on 20th March 2014, continuing to 20th March 2015, and monthly thereafter.
 - (iii) Notice to Quit and Section 33 Notice were served on the Respondent.

- (iv) The short assured tenancy has reached its ish date.
- (v) The contractual tenancy terminated on 20th June 2025.
- (vi) Tacit relocation is not in operation.
- (vii) The Applicant has given the Respondent notice that they require possession of the Property.
- (viii) It is reasonable to grant the order for possession.

Reasons for Decision

10. Section 33 of the Act provides that the Tribunal may make an order for possession if satisfied that the short assured tenancy has reached its finish, tacit relocation is not operating, the landlord has given notice to the tenant that they require possession, and it is reasonable to make the order.
11. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that they require possession of the Property. The Tribunal was satisfied that the Applicant had fulfilled the requirement of section 54(c) of the Act by serving the notices by recorded delivery at the Property.
12. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
13. The Applicant has suffered ill-health and no longer wishes to be a landlord. The current situation with non-payment of rent and refusal to allow access is causing the Applicant stress, which has impacted upon his health. The arrears of rent are significant and rising. The Tribunal considered it likely that the arrears would continue to rise if an order for possession was not granted. The Tribunal considered it likely that the Respondent would continue to refuse to provide access to the Applicant and contractors to carry out mandatory landlord safety checks if no order was granted. The Tribunal considered it likely that the Applicant's health would deteriorate further if no order was granted.
14. The Respondent did not see fit to attend the CMD or make any submissions to assist the Tribunal in considering the impact upon him of making an order for possession. The Tribunal took into account that there are no children living in the Property who may be affected by the granting of an order.
15. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend the CMD or make representations to the Tribunal to indicate why an order should not be granted. The Tribunal considered it was reasonable to grant the order sought.

Decision

16. An order for possession of the Property is granted under section 33 of the Housing (Scotland) Act 1988. The order is not to be executed prior to 12 noon on 23rd March 2026.

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.

Helen Forbes

Legal Member/Chair

18th February 2026
Date