



**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 (“the Act”)**

Chamber Ref: FTS/HPC/EV/25/3153

**Re: Property at 22/2 (Ground Floor Right), Queen Mary Terrace, Hill Street,
Inverkeithing, Fife, KY11 1AE (“the Property”)**

Parties:

**Mr. Edward Cleave, 2 Bowhouse drive, Kirkcaldy, Fife, KY1 1SB (“the
Applicant”)**

**Mr. Stephen Baxter , 22/2 (Ground Floor Right), Queen Mary Terrace, Hill
Street, Inverkeithing, Fife, KY11 1AE (“the Respondent”)**

Tribunal Members:

James Bauld (Legal Member) and Nicholas Allan (Ordinary Member)

Decision

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

Background

1. By application dated 21 July 2025, the applicant sought an order under section 33 of the Housing (Scotland) Act 1988 (“the Act”) and in terms of rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 7 August 2025 the application was accepted by the tribunal and referred for determination by the tribunal.

3. A Case Management Discussion was set to take place on 20 January 2026 and appropriate intimation of that hearing was given to both the landlord and the tenants.

The Case Management Discussion

4. The Case Management Discussion (CMD) took place on 20 January 2026. The applicant was not present but was represented by Ms. Helen Couser, his letting agent from Fife Letting Services. The respondent was present.
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.

Discussions at CMD

6. The tribunal asked various questions of the parties with regard to the application.
7. In answer to the questions posed by the tribunal, parties confirmed that there was no dispute that the respondent was the tenant of the property and that the relevant notices had been served and received.
8. The tribunal explained that the only matter which appeared to require to be determined was whether it was reasonable to grant the order.
9. Mr. Baxter indicated he was not opposed to the granting of the order. He has been seeking assistance to obtain alternative accommodation via the local council's housing/homelessness team. He has been advised that assistance will only be provided once an order is granted. He is a single man aged 61 and accept that the Landlord wishes to recover possession.
10. Ms Couser indicated that the applicant is 82 years of age. He has a portfolio of other rented properties and wishes to sell this property to raise funds to enable him to complete necessary repair works to the other properties. This property has no mortgage.
11. The tribunal noted that both parties were effectively agreed that the eviction order should be granted and that they both agreed that it was reasonable to do so.

Findings in Fact

12. The applicant and the respondent are respectively the landlord and the tenant of the property by means of a tenancy agreement originally commencing on 9 July 2008.
13. The tenancy was a short assured tenancy in terms of the Act.
14. The rent payable was initially £284.19 per month and was now £360.00 per month.
15. On 14 October 2024 the applicant's agent served upon the respondent a notice to quit and a notice in terms of section 33 (1) (d) of the Act. These notices were served on the respondents by sheriff officers. Said notices became effective on 9 January 2025.
16. The notices informed the respondent that the applicant wished to seek recovery of possession using the provisions of section 33 of the Act.
17. The notices were correctly drafted and gave appropriate periods of notice as required by law.
18. The basis for the order for possession was accordingly established

Decision and reasons

19. When the 1988 Act was originally passed, the eviction process under section 33 was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the required notices in terms of that section had been served upon the tenant.
20. Since 7 April 2020, in terms of changes initially made by the Coronavirus (Scotland) Act 2020 and then by the Coronavirus (Recovery and Reform) (Scotland) Act 2022, an eviction order on this basis can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order
21. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties

22. The Tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, **Cumming v Danson**, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:

“[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account”.

23. In this case the tribunal finds that it is reasonable to grant the order.

24. The tribunal accepts that both parties are agreed that the eviction order should be granted. The landlord wishes to sell the property for legitimate reasons. The tribunal notes that the tenant requires the eviction order to be granted in order to obtain proper assistance from the local authority in finding alternative accommodation. It is noted that Mr. Baxter has sought assistance from the council and has been told that he will be assisted in obtaining alternative accommodation when the order is granted and he faces actual homelessness.

25. The respondent requires assistance from the relevant authorities in obtaining alternative accommodation. The council's homelessness prevention team have effectively advised the respondent that he will not obtain that assistance unless an eviction order is granted thus triggering specific statutory duties under the Housing (Scotland) Act 1987. The granting of the order will therefore ultimately (and almost counter intuitively) benefit the respondent in his attempts to obtain more suitable accommodation for himself.

26. The balance of reasonableness is weighted towards the applicant in this application.

27. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

Decision

The order for recovery of possession is granted.

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.

Jim Bauld

20 January 2026

Legal Member/Chair

Date