



**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/25/3433**

**Re: Property at 6 Plover Place, Johnstone, PA5 0ST (“the Property”)**

**Parties:**

**Mr Gary Metcalff, 12 Martlet Dve, Johnstone, PA5 0SJ (“the Applicant”)**

**Mrs Lucy MacDonald, 6 Plover Place, Johnstone, PA5 0ST (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member) and Angus Lamont (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
3. The case called for a case management discussion on 17 February 2026. The applicant and the respondent appeared. They both had a supporter, Victoria Smith for the applicant and James MacDonald for the Respondent.

#### Case Management Discussion

4. The Applicant moved for eviction. He advised that he had given notice to quit. He wanted to recover the property as he needed to sell it to access the equity. He had ill health which may in the future affect his ability to work. His daughter had been unwell, and he wanted to give her financial support. In addition, he had now served two notices to quit to give the respondents time to either move or buy the property. He had offered to sell the property to them. They had asked him if he would wait a year before taking any action to get rid of the property, in order that they could get enough bank records for their mortgage application. He had agreed to do this; however, they still had not confirmed that they would buy the property and would not agree on a price. He is 50 years old. He has two children, 20 and 16 years of age. He only has one property (this one), which he rents out. He has a mortgage on the house he lives in.
5. The respondent advised that she was not opposing the order for eviction. Her husband was self-employed. They had been offered the chance to buy the property, but they were still waiting to see if they could get a mortgage. They had also applied for a tenancy with the council. They had been told they would have to wait for 12 months before they would get a tenancy, due to the housing crisis. They had been advised by the local authority to attend the case management hearing and then let the housing department know if the order was granted. The respondent advised that she resides in the property with her husband, her two children and her adult younger brother.

## Findings in Fact

6. We found the following facts established:-
7. That there was in place a short assured tenancy.
8. That there was a tenancy agreement between the Applicant and the Respondent in respect of the Property.
9. The landlord was Gary Metcalf.
10. The tenant was Lucy Macdonald.
11. The tenancy commenced on 28 November 2014 until 29 November 2015 and continued month to month thereafter. It was signed on 24 November 2014.
12. The AT5 Form was in the prescribed format and was dated and signed on 24 November 2014.
13. The notice to quit contained the prescribed information and was dated 22 April 2025, it sought vacant possession as of 29 June 2025. It provided more than 2 months' notice that vacant possession was sought. There was evidence of service of the notice. The notice to quit terminated the tenancy on an *ish* date.
14. The section 33 notice contained the prescribed information and were dated 22 April 2025, it sought vacant possession as of 29 June 2025. It provided more than 2 months' notice that vacant possession was sought. There was evidence of service of the notice.
15. There was a section 11 notice addressed to the local authority.
16. The applicant sought to recover the property, to sell it and have funds to support himself and his daughter, who were both suffering ill-health. He had offered to

sell the property to the respondent, but they had not, however, obtained a mortgage or agreed on a price. The respondent did not oppose the order for eviction being granted.

### 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 end; tacit relocation is not operating; no further contractual tenancy for the time being is in existence; 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 also noted that a section 11 notice has been sent to the local authority.
19. Having regard to the question of reasonableness, the Respondent did not object to the order being granted. They had applied for housing with the local council. The applicant sought to recover the property, in order to sell it and have funds to support himself and his daughter, who were both suffering ill health. He had offered to sell the property to the respondent they had not obtained a mortgage or agreed on a price however. He had waited over 12 months for them to get a mortgage. It appeared that the applicant had been reasonable in his dealings with the respondent. The applicant only rents out one property.
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

23 February 2026

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**Legal Member/Chair**

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**Date**