



**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/25/4127**

**Re: Property at 1/1 25 Burghead Place, Glasgow, G51 4QN (“the Property”)**

**Parties:**

**Mr Stephen Newlands and Mrs Lynn Newlands, 4826 Brighton Avenue, San Diego, California, 92107, United States (“the Applicants”)**

**Mr Richard McAllister, 1/1 25 Burghead Place, Glasgow, G51 4QN (“the Respondent”)**

**Tribunal Members:**

**Serena Weir (Legal Member) and Ann Moore (Ordinary Member)**

**Decision (in absence of the Respondent)**

**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 25 September 2025 the Applicants 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 (“**the procedure rules**”). Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, AT5, Notice to Quit, Section 33 Notice, proof of service of the Notice to Quit and Section 33 Notice and the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003 and proof of service of same.
2. On 27 October 2025 the application was accepted by the Tribunal and referred for determination by the Tribunal.
3. A Case Management Discussion (“**CMD**”) was set to take place on 07 April 2026 and appropriate intimation of that hearing was given to all parties. The application, supporting papers and details of the CMD were served on the Respondent by Sheriff Officer on 18 February 2026. In terms of said

notification, the Respondent was given an opportunity to lodge written representations. None were lodged prior to the CMD.

#### **The Case Management Discussion**

4. The CMD took place on 07 April 2026 via telephone case conference. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but he did not do so. The Applicants did not attend but were represented by Mr Joseph Quaradeghini, Managing Director and Ms Maria Turnbull, Branch Manager, of Martin & Co estate agents. The Respondent did not take part.
5. Following introductions and introductory remarks by the Legal Member, the Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
6. The Tribunal asked various questions of the Applicants' representatives with regard to the application.
7. The Applicants were the landlords and the Respondent the tenant of a Short Assured Tenancy over the Property dated 31 May 2010. The tenancy continued until 03 December 2010 and on a day to day basis thereafter. The terms of the tenancy require two months' notice by either party to end the tenancy.
8. An AT5 notice under section 32 of the Act was served on the Respondent prior to the creation of the tenancy.
9. The Respondent was served with a valid Notice to Quit by Sheriff Officer on 27 June 2025. In the said Notice to Quit, the Applicants gave notice to the Respondent that he would require to remove from the Property on or before 03 September 2025.
10. Further, on the same date, the Applicants served upon the Respondent Notice under Section 33(1)(d) of the Act stating that possession was required of the Property as at 03 September 2025.
11. The tenancy has come to an end.
12. Tacit relocation is not occurring.
13. Notification was provided by the Applicants to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
14. The Applicants' representatives explained that they Applicants had immigrated to America and so managing their property portfolio was becoming difficult for them. They owned a number of tenanted properties. As those tenancies have been coming to an end, the Applicants have been selling the properties. Martin & Co managed four of the Applicants' properties. Some other properties were managed by the Applicants themselves. The Property which was the subject of this application was not one which Martin & Co had managed throughout. Martin & Co had only recently been instructed to serve notice on the Respondent, to look to bring this tenancy to an end and obtain vacant possession of the Property in order to sell this for the Applicants.
15. In March 2025, Martin & Co spoke with the Applicants and agreed to obtain vacant possession of the Property and then market this for sale. The Applicants are considering finding a purchaser to buy the Property as an investment. That has been made more difficult because the Applicants have not been able to arrange for access to the Property until today. The access which had been arranged for today was pursuant to a right of entry application having been made by the Applicants. There are a number of matters which need attended to in the Property but Martin & Co are instructed to market the Property for sale. They are aiming for the Property to be placed on the market for sale just as

- soon as possible but certainly within three months of the Respondent having been removed from the Property.
16. The Applicants have not given consideration to selling the Property with the Respondent in situ as the Respondent has for the past year failed to make payment of the sums due for rent.
  17. The Applicants' understanding is that the Respondent lives at the Property alone. Based on a telephone discussion which Martin & Co had with the Respondent about identifying a suitable date for access to the Property, it is understood that the Respondent is presently working. Martin & Co have attempted to contact the Respondent by text and email but have only twice made contact with him.
  18. The Applicants do not have any information about any health or vulnerability concerns on the part of the Respondent. Similarly, they do not have any information about what, if any, steps which have been taken by the Respondent to find alternative accommodation. The Respondent has advised the Applicants' representative that he will remain in the Property until such time as a repossession order is made against him.
  19. The Tribunal Members adjourned to consider the application and, on reconvening, confirmed that the Tribunal was satisfied that the eviction application was in order and that it was reasonable for the order sought to be granted today.

#### **Findings in Fact**

20. The Applicants are the registered owners of the Property.
21. The Applicants and the Respondent are respectively the landlords and tenant of the Property by virtue of a Short Assured Tenancy in terms of the Act dated 31 May 2010. The tenancy continued until 03 December 2010 and from day to day thereafter. The terms of the tenancy require two months' notice by either party to end the tenancy.
22. An AT5 notice under section 32 of the Act was served on the Respondent prior to the creation of the tenancy.
23. The Respondent was served with a valid Notice to Quit on 27 June 2025. In the said Notice to Quit, the Applicants gave notice to the Respondent that he would require to remove from the Property on or before 03 September 2025.
24. Further, on the same date, the Applicants served upon the Respondent Notice under Section 33(1)(d) of the Act stating that possession was required of the Property as at 03 September 2025.
25. The tenancy has come to an end.
26. Tacit relocation is not occurring.
27. Notification was provided by the Applicants to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
28. The Applicants have immigrated to America. As a result, continued management of their property portfolio was difficult. The Applicants were selling their property portfolio, including the Property.
29. Martin & Co have been instructed to sell the Property. The Property will be marketed for sale within three months of the Respondent removing from the Property.
30. The Respondent lives at the Property alone. It is not known that he has any health conditions or vulnerability.

#### **Reasons for Decision**

31. The application proceeds upon Section 33 of the Act which states:-

*“Recovery of possession on termination of a short assured tenancy.*

*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 ish;*

*(b) that tacit relocation is not operating;*

*(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.”*

32. The Tribunal considered that the procedure had been fair. The Tribunal was satisfied that it has sufficient information before it to make a final order at a CMD within rule 17 of the procedure rules.

33. The Tribunal was satisfied that pre-action requirements including the service of the Notice to Quit and Section 33 notice in terms of the Act had been properly and timeously carried out by the Applicants in connection with this application.

34. The Tribunal considered the Notice to Quit and Section 33 notice provided and the terms of the tenancy agreement. The tenancy was brought to an end by the combination of the Section 33 notice and Notice to Quit served on the Respondent on 27 June 2025 where the notice to quit had an ish of 03 September 2025.

35. Section 33(1) of the Act states that an order for possession shall be granted by the Tribunal if satisfied that the short assured tenancy has reached its finish; that tacit relocation is not operating; that the landlord has given to the tenant notice stating that he requires possession of the house; and that it is reasonable to make an order for possession. The Tribunal was satisfied that all requirements of Section 33(1) had been met.

36. The Tribunal now 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. 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. 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 a frequently 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”.*

37. As to reasonableness, the Tribunal considered the background to the application, the supporting documentation lodged by the Applicants and the oral submissions on behalf of the Applicants at the CMD.
38. The Tribunal accepted the unchallenged evidence that the Applicants are entitled to sell the Property, wish to do so and have instructed an agent sell the Property at market value, within 3 months of the Respondent ceasing to occupy the Property. There is no presumption, as a matter of law, in favour of giving primacy to the property rights of a landlord over the occupancy rights of the tenant, or vice versa.
39. The Respondent had not entered into the Tribunal process and the Tribunal therefore had no material before it either to contradict the Applicants' position nor to advance any reasonableness arguments on behalf of the Respondent.
40. Accordingly, the ground for eviction was accordingly established and the Tribunal was satisfied that it was reasonable in all of the circumstances to grant the eviction order.

## 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.**

# Serena Weir

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Legal Member/Chair

07 April 2026  
Date

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\*Insert or Delete as required