



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 19 and 33 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/25/0533

Re: Property at 2 Torcy Way, Girvan, KA26 0EY (“the Property”)

Parties:

Mr John Holmes, 10 Carrowcrin Road, Armoy, Co Antrim, BT53 8YL (“the Applicant”)

Miss Claire Stewart, 2 Torcy Way, Girvan, KA26 0EY (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Ann Moore (Ordinary Member)

Decision

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

1. On 7th February 2025 the Applicant lodged an Application with the Tribunal under Rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondents from the property.

2. Lodged with the application were: -
 - a. Short Assured Tenancy Agreement dated 12th January 2010 and initially running from 12th January 2010 to 12th July 2010 and monthly thereafter;
 - b. AT5 Notice dated 12th January 2010;
 - c. Notice to Quit dated 28th October 2024 for 12th January 2024;
 - d. Section 33 Notice dated 28th October 2024 for 12th January 2024;
 - e. Proof of service of 3 and 4;
 - f. Section 11 Notice and proof of service;

3. The Application was served on the Respondent by Sheriff Officers on 23rd July 2025.
4. On 13th August 2025 the Respondent's representative lodged a Written Submission challenging the validity of the Notice to Quit and section 33 Notices due to incorrect dates and also opposing the application on the grounds of reasonableness.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Miss Archibald of Wallace Hodge, Solicitors. The Respondent was represented by Mr Anderson of Ayr Housing Aid Centre.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and also that it was reasonable for the Tribunal to grant the order.
7. It was clear that there was a dispute about whether or not the Notices were valid.
8. Miss Archibald confirmed that as far as reasonableness was concerned the Applicant was looking to sell the property as it was no longer financially viable for him to keep it and rent it out. He was losing a substantial amount of money on an annual basis.
9. Mr Anderson confirmed that the Respondent's position on reasonableness was broadly as per the Written Submission.
10. As matters were in dispute the Tribunal decided that a Hearing was required.

The issues in dispute are:

- whether or not the Notice to Quit and section 33 Notice are valid
- whether it is reasonable to grant an order for eviction

Procedure subsequent to CMD

11. Each party lodged Written Submissions setting out their positions and lodged documentary evidence in support.

Hearing

12. The Hearing took place by teleconference. The Applicant was represented by Mr Ferry of Wallace Hodge, Solicitors. The Respondent was not present but was represented by Mr Anderson of Ayr Housing Aid Centre.

13. Mr Anderson explained that he had lodged a letter from the Respondent's doctor with the Tribunal the previous day. (The Clerk checked, but the letter had not yet made it was on to the system). Mr Anderson read the contents of the letter. It said that the Respondent was under investigation of a potential diagnosis of FnD and that her symptoms had worsened in recent months and she was not fit to attend the Tribunal.
14. Mr Anderson said that he was seeking an adjournment, but that he had explained to the Respondent that the letter from the doctor had not given any indication of when she might be fit to attend. He said that he had advised the Respondent that the Applicant had provided a legal argument as to why the Notices were valid, and that the argument for the Tribunal to decide would be based on reasonableness. He said that the Respondent would not oppose the order if it could be suspended for a period of months.
15. The Tribunal adjourned for a short period to allow Mr Ferry to seek the Applicant's instructions.
16. After the adjournment Mr Ferry confirmed that the Applicant would agree to the order being suspended for a period of three months. 13th June 2026 was agreed as being the earliest date on which the eviction could proceed.

Reasons For Decision

17. The order for eviction is being granted as the parties have agreed, and therefore the Tribunal does not require to make Findings in Fact.

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.

Alison Kelly

17/03/2026

Legal Member/Chair

Date