



**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/25/4218**

**Property: 9 Thomson Grove, Uphall, West Lothian EH52 6BP ("Property")**

**Parties:**

**Neil Borthwick, 199a West Main Street, Broxburn, West Lothian EH52 5LH ("Applicant")**

**Marin Jozefiak and Beatta Walczak, 9 Thomson Grove, Uphall, West Lothian EH52 6BP ("Respondents")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Mary Lyden (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to grant an order for possession of the Property.**

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement which commenced on 20 September 2006 and AT5; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 2 July 2025 and both addressed to the Respondents; Sheriff Officer certificate of service of the Notice to Quit and section 33 notice on each Respondent on 8 July 2025; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email and sheriff officer execution of service confirming service of the application on the Respondent on 4 March 2026.

**Case Management Discussion ("CMD")**

A CMD took place before the Tribunal by conference call on 20 April 2026. The Applicant was in attendance. The Respondents were not.

The Applicant told the Tribunal that he had been in contact with the Respondents recently as they were in rent arrears in the region of £5000. He said that the rent had not been paid since the notice to quit was served in July 2025. He said that both Respondents are in employment. He said that the Respondents have a son aged around 16 who he believed worked in his father's business. He said he was not aware of the Respondents having any health issues of which the Tribunal should be aware. The Applicant told the Tribunal that the mortgage on the Property is interest only and is due to be repaid in 18 months time. He therefore needs to sell the Property. He said that the current monthly payments are higher than the monthly rent for the Property. The Applicant told the Tribunal that he did offer the Respondents the opportunity to buy the Property at a discounted price but they ultimately did not wish to proceed with that option.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short assured tenancy agreement which commenced on 20 September 2006.
2. The tenancy was for a period of 6 months from 20 September 2006.
3. A Notice to Quit dated 2 July 2025 was served on the Respondent on 8 July 2025 stating that the tenancy would terminate on 20 September 2025.
4. A Notice in terms of Section 33 of the 1988 Act dated 2 July 2025 was served on the Respondent on 8 July 2025 stating that possession of the property was required on 20 September 2025.
5. The tenancy reached its *ish* on 20 September 2025 and is not continuing by tacit relocation.
6. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy and that a Section 33 Notice and Notice to Quit had been served on the Respondent giving two months' notice that the Applicant required possession of the Property. Having considered all of the circumstances, and in light of the lack of opposition from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

## **Decision**

The Tribunal grants an Order for 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.**

**Joan Devine**

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**Legal Member**

**Date: 20 April 2026**