



**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/25/2164**

**Re: Property at 94 Inveraray Avenue, Glenrothes, Fife, KY7 4QP (“the Property”)**

**Parties:**

**Ms Karen Barnes, 9 Aytoun Grove, Dunfermline, KY12 9YA (“the Applicant”)**

**Ms Alana Caroline Morrison, Mr Anthony McNeil, 94 Inveraray Avenue,  
Glenrothes, Fife, KY7 4QP; 40 Millburn Avenue, Coaltown of Balgonie, KY7  
6HR (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Ahsan Khan (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 20<sup>th</sup> May 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 initially running from 1<sup>st</sup> June 2015 to 1st December 2015 and monthly thereafter, and with monthly rent of £380;
  - b. AT5 Notice dated 15<sup>th</sup> May 2015;
  - c. Notice to Quit dated 27<sup>th</sup> January 2025 for 1st April 2025;
  - d. Section 33 Notice dated 27<sup>th</sup> January 2025 for 1st April 2025;
  - e. Proof of service of c and d;
  - f. Section 11 Notice and proof of service;

3. The Application was served on the Respondents personally by Sheriff Officers on 5<sup>th</sup> March 2026.
4. On 15<sup>th</sup> April 2026 the First Respondent lodged a Written Submission.

### **Case Management Discussion**

5. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant was represented by Mr Livingstone of Landlord Agents Ltd. The First Respondent (“ACM”) represented herself. She explained that the Second respondent had not lived in the property for over a year, and that he was the Applicant’s son.
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. Mr Livingstone sought an order for eviction in terms of sections 19 and 33 of the Housing (Scotland) Act 1988.
8. ACM’s Written Representation had stated that she wanted to move from the property but wanted time for the local authority to find her somewhere suitable for herself and her children, one of whom has disabilities, but she also gave information about why it was not reasonable to grant the order. The Tribunal asked her to confirm. She said that she did not want to continue living in the property due to its condition and the family situation, but did not want to go into homeless accommodation. She had been in touch with Fife Council, she had a good number of points on their allocation scheme and she had letters of support from the school and doctor. She had not been told by the Council that she needed an eviction order for her application to be moved on.
9. Mr Livingstone said that the Applicant’s husband had experienced ill health and the Applicant was looking to sell the rental property, which he thought was mortgage free, to assist their finances. She has no other rental properties. He was not aware of any rent arrears. He thought that the Applicant would be content with an eviction order, suspended for three months.
10. The Tribunal had a short adjournment to allow ACM to consider her position. When the Tribunal reconvened ACM said that she would be content with an eviction order being granted, if it was suspended for three months. She was clear that she no longer wished to live in the property.

## Findings in Fact

- i. The parties entered into a Short Assured Tenancy Agreement in respect of the property;
- ii. The Short Assured Tenancy Agreement initially ran from 1<sup>st</sup> June 2015 to 1st December 2015 and monthly thereafter;
- iii. Notice To Quit and Section 33 Notice were served timeously and correctly;
- iv. The Short Assured Tenancy has reached its ish;
- v. Tacit relocation is not operating;
- vi. The Application was served on the Respondent by Sheriff Officer on 5<sup>th</sup> March 2026;
- vii. ACM lives in the property with her two children, aged 5 and 3, one of whom is disabled;
- viii. The Applicant's son is ACM's ex partner.

## Reasons For Decision

11. Section 33 of the Housing (Scotland) Act 1988 is as follows:

*(1) 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 finish;*

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

*(c) . . . . .*

*(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.*

*(2) The period of notice to be given under subsection (1)(d) above shall be—*

*(i) if the terms of the tenancy provide, in relation to such notice, for a period of more than two months, that period;*

*(ii) in any other case, two months.*

*(3) A notice under paragraph (d) of subsection (1) above may be served before, at or after the termination of the tenancy to which it relates.*

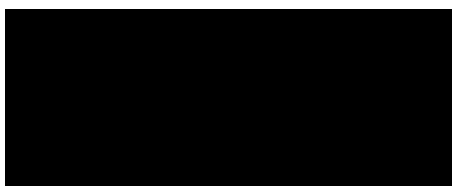
*(4) Where the First-tier Tribunal makes an order for possession of a house by virtue of subsection (1) above, any statutory assured tenancy which has arisen as at that finish shall end (without further notice) on the day on which the order takes effect.*

*(5)For the avoidance of doubt, sections 18 and 19 do not apply for the purpose of a landlord seeking to recover possession of the house under this section.*

9. The Tribunal is satisfied that the Short Assured Tenancy has been brought to an end and that tacit relocation is not operating. The Tribunal is also satisfied that it is reasonable to grant the order. ACM confirmed that she did not wish to continue living in the property. The Tribunal agreed to suspend the order for a period of three months to give ACM time to find a new tenancy.

### **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.**



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**Legal Member/Chair**

**24/04/26**

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**Date**