



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 66 of the Procedure Rules.

Chamber Ref: FTS/HPC/EV/25/3980

Re: 335 Redburn, Alexandria, G83 9BZ ("the Property")

Parties:

Carole Clark, 38 Queen Street, Glasgow ('the Applicant')

Miss Meaghan McDiarmid, Hovepark Lettings Ltd ('the Applicant's Representative')

Charlene Gold ('the Respondent')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')

Tribunal Member: Jacqui Taylor (Legal Member) Angus Lamont (Ordinary Member)

1. Background.

The Applicant applied to the Tribunal for eviction/ possession of the Rented Property under section 33 of the Housing (Scotland) Act 1988, in terms of Rule 66 of the Procedure Rules. The application was dated 16th September 2025 and section 5 detailed the grounds of appeal in the following terms: 'Notice to Quit and section 33 was served bringing the tenancy to an end. Landlord needs to sell the rented property and requires vacant possession to do so'

2. Documents lodged with the Tribunal were:-

2.1 The Short Assured Tenancy Agreement between the parties dated 20th April 2012.

2.2 AT 5 dated 20th April 2012.

2.3 A copy of the Notice to Quit dated 17th October 2024 giving the Tenant formal notice to quit the Property by 20th December 2024.

2.4 A copy of the Section 33 Notice to the Tenant dated 17th October 2024 advising her that the Landlord requires vacant possession on or before 20th December 2024.

2.5 Recorded delivery slip dated 18th October 2024, confirming delivery.

2.6 A copy of the Section 11 Notice dated 20th April 2012 addressed to West Dunbartonshire Council.

2.7 Email to West Dunbartonshire Council dated 4th July 2025 sending the section 11 notice.

2.8 A copy of the letter from Peterkins Robertson Paul dated 4th July 2025 advising that they have been instructed to act in connection with the sale of the Property.

3. By Notice of Acceptance by Josephine Bonnar, Convener of the Tribunal, dated 20th November 2025, she intimated that she had decided to refer the application (which application paperwork comprises documents received between 17th September 2025 and 28th October 2025) to a Tribunal.

4. Case Management Discussion.

The case called for a CMD by conference call at 14.00 on 6th May 2026.

The Applicant, her husband John Clark and the Applicant's Representative attended.

The Respondent did not attend. The Respondent had been served with notice of the CMD by Ross Price, Sheriff Officer, on 20th March 2026. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been met.

4.1 Meaghan McDiarmid advised the Tribunal as follows:

4.1.1 The Applicant needs to sell the Property. She has a mortgage with Siberite Mortgages and that mortgage has come to an end and the mortgage company will not extend it.

4.1.2 The Property is a two bedroom mid terraced property.

4.1.3 The Tenant has resided in the Property since 2012. She has three children. She suspects the Tenant has moved out.

4.1.4 The Tenant was unemployed and in receipt of Universal Credit. She stopped paying rent in December and the arrears amount to £3300.

4.2 Mrs Clark advised the Tribunal as follows:

4.2.1 She had contacted Universal Credit and they advised that the Tenant had no claim in relation to rent for the Property.

4.2.2 Her letting agent had received an email from the Tenant dated 14th January 2026 which stated she had somewhere else and she would be able to give the keys back the first week on February. She is in the middle of moving out and sorting out her belongings. Her letting agent chased the Tenant on 17th February 2026 but the Tenant did not reply.

4.2.3 She confirmed that the Tenant has three children. Two are approximately twenty years of age and one is younger and at high school.

4.3 Mr Clark explained that they have a portfolio of approximately 70 properties. The Property is valued at approximately £60,000 and the outstanding mortgage is approximately £55,000. They have been unable to remortgage the Property as there is not sufficient equity in the Property. The mortgage company is pressing for the Property to be sold.

5. The Tribunal made the following findings in fact:

5.1 The Applicant is owner of the Property in terms of Land Certificate title number DMB5389 and the Landlord named on the short assured tenancy agreement.

5.2 The Respondent is the Tenant named on the short assured tenancy agreement.

5.3 The original term of the Tenancy was from 20th April 2012 to 19th October 2012 and month to month thereafter.

5.4 The Notice to Quit and Section 33 Notice were served on the Respondent on 18th October 2024.

5.5 Following service of the Notice to Quit the contracted tenancy ended.

6. Requirements of Section 66 of the Procedure Rules.

(a) The Tribunal confirmed that the application correctly detailed the requirements of section 66 of the Procedure Rules namely:-

(i) the name, address and registration number of the Landlord.

(ii) the name and address of the Landlord's representative.

(iii) the name and address of the Tenant.

(iv) the possession grounds that apply.

(b) The Tribunal confirmed that the application had been accompanied by the documents specified in Section 66(b) of the Procedure Rules:

- (i) The Tenancy Agreement.
- (ii) A copy of the AT5.
- (iii) A copy of the Section 33 Notice.
- (iii) A copy of the notice to quit served by the Landlord on the Tenant.
- (iv) The required notice giving West Dunbartonshire Council notice of the proceedings under section 11 of the Homelessness etc Scotland Act 2003.

The Tribunal were satisfied that the Section 33 Notice and the Notice to Quit were valid. The Section 33 Notice gave the Respondent in excess of the required period of two months notice and the Notice to Quit gave the Respondent in excess of forty days notice. The Notice to Quit was in correct form and gave the Respondent notice that the lease was terminating on 20th December 2024.

(c) The Tribunal confirmed that the application form had been electronically signed and dated by the Landlords' agents as required by Section 65(c) of the Procedure Rules.

7. Requirements of section 33 of the Housing (Scotland) Act 1988.

7.1 The Tribunal acknowledged that the ish date of the tenancy was 19th December 2024 and the Notice to Quit required the Tenant to vacate the Property on or before 20th December 2024. The Notice specified a date one day later than the ish date. However, the Tribunal were satisfied that the Tenant had not been prejudiced by this small error.

7.2 The Tribunal were satisfied that the following requirements of section 33 have been met, namely that:

- (i) The Short assured Tenancy has reached its finish.
- (ii) That tacit relocation is not operating.
- (iii) That the Landlord had validly served the Tenant with the section 33 notice stating that she requires possession of the Property on or before 20th December 2024.

7.3 The Tribunal accepted the Applicant's oral evidence to the effect that (i) it was likely that the Tenant had vacated the Property due to the email the Tenant had sent to the Letting Agent dated 14th January 2026 advising that she had found another

Property and that the Universal Credit payments to the Landlord had stopped and (2) the Applicant's mortgage company were not prepared to extend the mortgage over the Property and they needed to sell the Property.

7.4 The Tribunal considered if it was reasonable to grant the eviction order. They were mindful of the decision of Lord Greene in the case of *Cummings v Dawson* (1942) 2 All ER 653 on matters to consider when determining reasonableness:

'In considering reasonableness... it is 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, common sense way as a man of the world, and to come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or more weight, others may be decisive.'

The Tribunal found that it was reasonable for the eviction order to be granted given the fact that it is likely that the Tenant had already vacated the Property, the Landlord needs to sell the Property as the mortgage company are not prepared to extend the mortgage and the fact that the Respondent has not lodged any written representations.

8. Decision.

The Tribunal determined that the requirements of section 33(1) of the Housing (Scotland Act) 1988 had been complied with and made an order for possession of the Property.

9. 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.

Jacqui Taylor

Jacqui Taylor

Legal Member

6th May 2026