



**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/25/4787**

**Re: Property at 18 Wardlaw Gardens, Lawthorn, Irvine, KA11 2EW (“the  
Property”)**

**Parties:**

**Mr John Gardiner, 2 Rosedale Gardens, Collin, Dumfries, DG1 4LE (“the  
Applicant”)**

**Miss Michelle Wilson, 18 Wardlaw Gardens, Lawthorn, Irvine, KA11 2EW (“the  
Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mr A Anderson (Ordinary Member)**

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

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

**Background**

1. This is a Rule 66 application whereby the Applicant is seeking an order for possession in terms of section 33 of the Housing (Scotland) Act 1988 (“the Act”). The Applicant lodged a short assured tenancy agreement commencing on 24<sup>th</sup> January 2012 for a period of six months and monthly thereafter, Form AT5, rent statement, section 11 notice with evidence of service, notice to quit and section 33 notice with evidence of service.
2. The Application and notification of a Case Management Discussion were served upon the Respondent by Sheriff Officer on 26<sup>th</sup> March 2026.
3. By email dated 17<sup>th</sup> April 2026, the Respondent’s representative stated that the Respondent was not opposing the order but would wish to request a delay of three months from the date of granting the order. The representative stated that the Respondent has applied for local authority housing, and is also looking into options to purchase the Property. The Respondent would wish

additional time to discuss options with mortgage lenders and make an offer for the Property.

### **Case Management Discussion**

4. A Case Management Discussion (“CMD”) took place by telephone conference on 6<sup>th</sup> May 2026. The Applicant was in attendance. The Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
6. The Applicant explained that he wishes to retire from being a landlord due to his age. This is the only property that he lets. The Applicant said there had been some discussion between the parties in 2020, when the Applicant informed the Respondent of his plans, and the Respondent asked for first refusal on the Property. In November 2025, the Applicant was contacted by the Respondent’s representative, who stated that the Respondent was still interested in offering for the Property and would hope to make an offer in mid-January 2026. At that time, the Applicant provided the Respondent with the EPC for the Property. The Applicant said he last saw the Respondent later in November 2025 when there was a gas boiler service at the Property. The Applicant said he has heard nothing further from the Respondent regarding purchasing the Property.
7. Responding to questions from the Tribunal, the Applicant said the Respondent lives with her son in the Property. The Applicant understands the Respondent’s son has medical issues, and that the son attends school locally. The Applicant said, as far as he is aware, the Respondent is not in employment and is in receipt of benefits. The Applicant said the rent on the Property remains at £481 per month. He has not increased the rent since the start of the tenancy. The Applicant confirmed there are no arrears of rent.
8. Responding to questions from the Tribunal regarding the Respondent’s request for a three-month delay in the date of execution of the order, the Applicant said he would accept this course of action.

### **Findings in Fact and Law**

9.
  - (i) Parties entered into a short assured tenancy agreement with the Applicant commencing on 24<sup>th</sup> January 2012 for a period of six months and monthly thereafter
  - (ii) Notice to Quit and Section 33 Notice were served on the Respondent.

- (iii) The short assured tenancy has reached its finish date.
- (iv) The contractual tenancy terminated on 24<sup>th</sup> October 2025.
- (v) Tacit relocation is not in operation.
- (vi) The Applicant has given the Respondent notice that they require possession of the Property.
- (vii) It is reasonable to grant the order for possession.

### **Reasons for Decision**

10. Section 33 of the Act provides that the Tribunal may make an order for possession if satisfied that the short assured tenancy has reached its finish, tacit relocation is not operating, the landlord has given notice to the tenant that they require possession, and it is reasonable to make the order.
11. The contractual tenancy has been terminated, and tacit relocation is not in operation. The Applicant has given the Respondent notice that they require possession of the Property.
12. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
13. The Applicant wishes to retire from being a landlord due to his age. This has been his plan for some years.
14. The Respondent did not attend the CMD, but it was clear from her written representations that she is not opposing the order and is seeking social housing. The Respondent is also considering purchasing the Property. The Tribunal took into account that the Respondent has a teenage son living in the Property who may have health issues, and who attends school locally. The Tribunal considered that the Respondent's son may be impacted by the granting of an order for possession; however, the Respondent was not present to put forward any representations in this regard. The Tribunal considered that the Respondent has had the benefit of advice from the CAB and has indicated that she is not opposing the order. The Tribunal considered that the local authority has a duty to provide accommodation to the Respondent and her son if they are deemed to be homeless, which is the likely effect of the order for possession being granted. The Tribunal took into account the Respondent's expressed wish to obtain a mortgage to purchase the Property. The Tribunal considered that delaying execution of the order for a period of three months may assist the Respondent in obtaining a mortgage and entering into negotiations to purchase the Property.
15. In all the circumstances, the Tribunal considered it was reasonable to grant the order sought, and to delay execution of the order for a period of three months.

## **Decision**

16. An order for possession of the Property is granted under section 33 of the Housing (Scotland) Act 1988. The order is not to be executed prior to 12 noon on 6<sup>th</sup> August 2026.

## **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.**

Helen Forbes

**Legal Member/Chair**

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**6<sup>th</sup> May 2026**  
**Date**