



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 (“the 1988 Act”) and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/5245

Re: Property at 15B FLAT 2 YOUNG STREET, INVERNESS, IV3 5BL (“the Property”)

Parties:

Mr Kevin Heath, Mrs Pauline Heath, 19 ARDGOWAN CROY, INVERNESS, IV2 5PA (“the Applicant”)

Mr Gerald Grant, 15B FLAT 2 YOUNG STREET, INVERNESS, IV3 5BL (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Sara Hesp (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. The application received on 4 December 2025 sought an eviction order under Rule 66 on the basis that the Short Assured Tenancy had been brought to an end by service of the relevant notices. Supporting documentation was submitted, including a copy of the tenancy agreement, AT5, Notice to Quit, Section 33 Notice and section 11 Notice to the local authority. The Short Assured Tenancy began on 1 March 2012.
2. Following initial procedure, the application was accepted by the Tribunal on 27 January 2026 and notified to the Respondent by Sheriff Officer on 31 March

2026, together with details regarding the Case Management Discussion, which was scheduled to take place on 5 May 2026.

3. On 30 March 2026, the Applicant's representative lodged an email from one of the Applicants, Mr Heath, explaining his reasons for wishing to recover the Property and sell it. He explained that he is moving 170 miles away from the Property, which he has managed himself since 2006. He does not wish to manage the Property from this distance away. He also requires the sale proceeds from the Property to assist his purchase of another property in the area he is relocating to.
4. No written representations were received from, or on behalf of, the Respondent prior to the CMD.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place by telephone conference call on 5 May 2026, commencing at 2pm. In attendance was Miss Briony O'Keefe of Professional Property Letting on behalf of the Applicant. The Respondent did not attend. The Tribunal delayed the commencement of the CMD for around 5 minutes to allow the Respondent an opportunity to join late, but he did not do so.
6. Following introductions and introductory comments by the Legal Member, Miss O'Keefe was asked to confirm if she was aware of the Respondent's position in respect of the application or if there had been any contact from him. She explained that the Respondent had contacted the Applicant yesterday and advised that he was getting a Council house and has been given the keys but has not moved out of the Property as yet as he was awaiting the outcome of today's proceedings.
7. Miss O'Keefe was asked to confirm the Applicant's reasons for the application. She referred to the written representations lodged from the Applicant, Mr Heath explaining that he is relocating some distance away from Inverness, where the Property is situated (as outlined in paragraph 3 above) to Penicuik to be nearer family. She confirmed that he and his wife, the joint Applicant, are moving together. Mr Heath is in his 60s and is in the process of moving towards retirement. He has been selling off his other properties and now only has this Property and one further property in Penicuik which are still let out. Miss O'Keefe advised that an agent has not yet been instructed by the Applicant in respect of the sale of the Property as they are awaiting it being empty first.
8. Miss O'Keefe was also asked about the Respondent's circumstances. She confirmed that he is an older gentleman who lives alone and has lived at the Property since 2012. She does not know whether he is working or in receipt of benefits. They did not manage the Property for the Applicant but is aware of no issues with the tenancy, such as rent arrears. She did not know what the current rental was but the Applicant had said that the Respondent had told him that the Council property has a lower rental. All contact between the Applicant and

Respondent has been direct, including the serving of the notices, which was done in person by the Applicant. The Respondent had signed the notices in acknowledgement of receipt and had indicated to the Applicant at that time that he wanted to move into a Council property. He had therefore never indicated that he was opposed to the eviction. As he is understood to already have the keys to the Council property, Miss O'Keefe did not think there was any need for the Tribunal to extend the usual timeframe for enforcement of the eviction order.

9. The Tribunal Members adjourned to discuss the application in private and, on re-convening, confirmed that the eviction order sought would be granted, with no extension of the usual timescales. The Legal Member indicated that the decision paperwork would be issued in writing within the next few days, to Miss O'Keefe by email and to the Respondent by post.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Short Assured Tenancy which commenced on 1 March 2012.
3. The Applicant ended the contractual tenancy by serving on the Respondent a Notice to Quit and Section 33 Notice, both dated 20 August 2025, by hand delivery to the Respondent, who signed to acknowledge receipt on 21 August 2025.
4. The end of the contractual tenancy and notice period in terms of the notices was specified as 31 October 2025, which was an ish date in terms of the tenancy.
5. Both notices were in the correct form, provided sufficient notice and were served validly on the Respondent.
6. The Respondent has remained in possession of the Property following expiry of the notice period.
7. The Applicant intends to sell the Property as they are re-locating some distance away from the Property and do not wish to continue self-managing it from a distance and in order to recover the sale proceeds to assist in their purchase of a property for themselves in the area they are re-locating to.
8. The Respondent did not submit any written representations in respect of the application, nor attend the CMD.
9. The Applicant understands that the Respondent is not opposed to the eviction and has already secured alternative housing through the local authority.

Reasons for Decision

1. The Tribunal was satisfied that pre-action requirements including the service of the Notice to Quit and Section 33 Notice in terms of the 1988 Act had been properly and timeously carried out by the Applicant in connection with this Tribunal application.
2. Section 33(1) of the Act states that an order for possession shall be granted by the Tribunal if satisfied that the short assured tenancy has reached its finish; that tacit relocation is not operating; that the landlord has given to the tenant notice stating that he requires possession of the house; and that it is reasonable to make an order for possession. The Tribunal was satisfied that all requirements of Section 33(1) had been met.
3. As to reasonableness, the Tribunal considered the reasons stated for the Applicant's wish to recover the Property and sell it, due to the Applicant's proposed re-location. The Tribunal also took into account the representations made on behalf of the Applicant as to the personal circumstances of the Respondent and the Applicant's understanding that he wanted to move into Council accommodation, at a lower rental, and had, indeed, already secured a property to move to. The Tribunal had no indication that the Respondent wished to oppose the eviction application and no material before it to contradict the Applicant's position.
4. The Tribunal accordingly determined that it was reasonable, in all of the circumstances, for an order for recovery of possession of the Property to be granted at the CMD. There was nothing in dispute and therefore no requirement to adjourn to an Evidential Hearing.
5. There was no request made nor apparent necessity for the Tribunal to extend the usual timeframe for the eviction order being enforceable.
6. The Tribunal's decision was unanimous.

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.

N Weir

Legal Member/Chair

Date 5 May 2026

