



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 and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules)

Chamber Ref: FTS/HPC/EV/25/4068

Re: Property at 57 Morar Place, Castlepark, Irvine, KA12 9PT (“the Property”)

Parties:

Mr James Harpur, 14 Willow Lane, Fivemiletown, County Tyrone, BT75 0QJ (“the Applicant”)

Mr Marcus Wilson, Miss Deana Donoghue, 57 Morar Place, Castlepark, Irvine, KA12 9PT (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory requirements for eviction and recovery of possession have been established and that it is reasonable to grant the order sought.

Background

1. By application dated 23 September 2025, the Applicant sought an order under section 33 of the Housing (Scotland) Act 1988 (“**the Act**”) and in terms of rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“**the Rules**”).
2. On 25 November 2025, the application was accepted by the Tribunal and referred for determination by this tribunal.
3. A Case Management Discussion (“**CMD**”) was arranged to take place on 24 April 2026, and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

4. The CMD took place on 24 April 2026 by telephone conference call. The Applicant was represented by Ms Meaghan McDiarmid of Hovepark Lettings Ltd. The Respondent was represented by Mr Alister Meek of CHAPS.

5. In advance of the CMD, on 9 April 2026, the Respondent's representative had contacted the Tribunal with submissions stating,

'The respondents do not oppose the application but would like to request a delay of execution of three months from the date the eviction order is granted. The respondents have applied for local authority housing but as they have four children, aged between 3 and 13 years old, there is likely to be some delay in the local authority sourcing a tenancy suitable for a family of their size.'

6. On 14 April 2026, the Applicant's representative made submissions to the Tribunal in the following terms: -

'Ahead of the case management discussion next week, and after receipt of the respondent's submission we write to confirm the applicant's position. The applicant, Mr James Harpur, is a 72-year-old gentleman who was widowed 5 years ago. The property at 57 Morar Place, Irvine is his only rental property. He has reached an age in his life where his wishes to tie up financial affairs and intends to sell the rental property upon vacant possession. With him living in Northern Ireland he is not local to the property to attend to any issues. He does fully understand the tenant's family circumstances and whilst he does need still to sell, he is not opposed to their suggestion of a longer execution date for an order of eviction if the Tribunal sees fit.'

7. At the CMD, Ms McDiarmid confirmed that the Applicant remained of the same position and sought the order for eviction.

8. Mr Meek said that the Respondent had been advised by the local authority's housing department that due to their policies, the Respondent's application for housing would not proceed any further, until the order for eviction was granted. He confirmed that a three month suspension of the order was appropriate and reasonable in the circumstances. Therefore, he asked the tribunal to delay the eviction order to allow the Respondent's application for housing to the local authority to be progressed.

9. Ms McDiarmid confirmed to the tribunal that she did not oppose the delay of the eviction order for the period of three months. She confirmed that she was willing to delay the date after which an eviction order could be enforced to 24 July 2026.

10. On that basis, the Respondent's representative did not wish to argue that the grant of an order of eviction would be unreasonable.

Findings in Fact

11. The Applicant and the Respondent, are, respectively, the landlord and the tenant, who entered into a short assured tenancy of the Property by an agreement dated 22 March 2017.

12. The tenancy is a short assured tenancy in terms of the Act.

13. The Applicant has served upon the Respondent a notice to quit and a notice in terms of section 33 (1) (d) of the Act, both notices being dated 20 March 2025. These notices were served on the Respondent by Recorded Delivery mail. Said notices became effective on 22 May 2025.

14. The notices informed the Respondent that the Applicant wished to seek recovery of possession using the provisions of section 33 of the Act.

15. The notices were correctly drafted and gave appropriate periods of notice as required by law.

16. The basis for the order for possession was accordingly established.

17. A section 11 notice in terms of the Homelessness Etc. (Scotland) Act 2003 was served by email upon North Ayrshire Council by the Applicant, on 23 September 2025.

Reasons for Decision

18. An eviction order can only be granted if the tribunal is satisfied that it is reasonable to issue an eviction order.

19. In determining whether it is reasonable to grant the order, the tribunal is required to balance all of the evidence which has been presented and to weigh the various factors which apply to the parties.

20. In this case the tribunal finds that it is reasonable to grant the order.

21. The Respondent has confirmed that she does not wish to oppose the application, provided that the date of enforcement of any eviction order is not prior to 24 July 2026.

22. The tribunal has determined that, having considered all the relevant circumstances, the balance of reasonableness in this case weighs towards the Applicant.

23. The tribunal's order for eviction shall not be enforceable before 24 July 2026.

24. The Tribunal also exercised the power within rule 17 of the Rules, and determined that a final order should be made at the CMD

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.

Yvonne McKenna

24 April 2026

Legal Member/Chair

Date