



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/25/4880

Re: Property at 132 Kincaidston Drive, Ayr, KA7 3YL (“the Property”)

Parties:

Mr Ian Cuthbert, Mrs Ruby Cuthbert, 150 Dalmellington Road, Ayr, KA7 3UB (“the Applicant”)

Miss Carol Robson, 132 Kincaidston Drive, Ayr, KA7 3YL (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery and possession should be granted in favour of the Applicant. The Order is superseded until 22nd September 2026.

Background

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The application was received by the Housing and Property Chamber on The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. On 22nd April 2026, all parties were written to with the date for the Case Management Discussion (“CMD”) of 22nd May 2026 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 13th May 2026.

3. On 23rd April 2026, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by personal service. This was evidenced by Certificate of Intimation dated 23rd April 2026.
4. On 15th May 2026, the Respondent's representative emailed the Housing and Property Chamber raising points on behalf of the Respondent. This also included medical evidence.

Case Management Discussion

5. A CMD was held on 22nd May 2026 at 2pm by teleconferencing. The Applicants were present and represented by Ms Rachel Brown, Lime Green Estate Agents. The Respondent was not present but was represented by Mr Gerard Tierney, Advice Team Leader and Tribunal Officer, Ayr Housing Aid Centre SCIO.
6. The Applicants said that they require the Property for their adult son to live with his two dependent sons. His sons are aged 17 and 18. They are in full time education. This is the only rental property that they own. Their son split from his partner and was not able to obtain a mortgage. He has not been able to find a private residential tenancy as he has been told that landlords do not want to rent to families with teenage boys. The Applicants live in a three bedroom house. Their son has to sleep on the couch as there are not enough bedrooms in their house. The Property, which the Respondent lives in, has three bedrooms.
7. Ms Brown said that there have been no issues with the tenancy and the rent account is up to date.
8. Mr Tierney said that the Respondent was not objecting to an order other than the fact that she does not have any place to live with her son. She opposes an order being granted on this basis. Her local authority does not require an order for eviction to be granted before they are willing to rehouse someone. She has been told by her local authority housing department that due to her and her son's medical needs they will require to live in a bungalow. There are not as many bungalows as there are flats available. The Respondent is to go under the nominate scheme with a local housing association. This may be quicker to find her a new property.
9. The Tribunal discussed with Mr Tierney whether the Respondent has considered her position in terms of an order being granted and the extract superseded. He said that he could discuss that with the Respondent as opposed to proceeding with a hearing as the main focus was to allow the Respondent and her son suitable time to be rehoused. The Applicants said that they would not be opposed to an order being superseded until August 2026. The Tribunal briefly adjourned to allow Mr Tierney to contact the Respondent. Upon his return he said that the Respondent would not be opposed to an order being granted if it was superseded until 22nd September 2026. He was no longer relying on his submission other than the medical evidence. The Applicants said that they were not opposed to that date either. Given that there was no

opposition from either party the Tribunal granted the Order but superseded it until 22nd September 2026.

10. It was noted by the Applicants that there is no requirement for the Respondent to fulfil her obligations in terms of notice. If she allocated a property and is able to move before 22nd September 2026 the Applicants will not seek a notice period. Mr Tierney will keep Ms Brown and the Applicants up to date with any possible allocation of housing for the Respondent and her son.

Findings and reason for decision


11. The parties entered into a Short Assured Tenancy on 18th November 2004 until 18th May 2005. An AT5 was signed by both parties on the same date as the lease.
12. The Applicant now wants to let their son and his children live in the Property as he has not been able to obtain a private tenancy or a mortgage.
13. There are no tenancy issues with the Respondent and her family.
14. The Respondent is not opposed to the granting of an order on the basis that any order be superseded for three months. This is to allow the Respondent and her son to be rehoused in a suitable local authority or housing association property which meets their needs in term of their medical conditions. The Applicants are not opposed to the Order being superseded to that date.
15. The issue of reasonableness, while fully considered, was viewed in the context of the action not being opposed. Accordingly, this weighed in the favour of granting the Order.

Decision

16. The Applicant is entitled to an Order of for recovery of possession. The Order is superseded to 22nd September 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.



Legal Member/Chair

22nd May 2026

Date