



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 Act”)

Chamber Ref: FTS/HPC/EV/25/4363

Re: Property at 42 Fairview Way, Danestone, Aberdeen, AB22 8ZW (“the Property”)

Parties:

Ms Debbie Rushforth, 31 Fairview Way, Danestone, Aberdeen, AB22 8ZW (“the Applicant”)

Ms Rebecca Guy now residing at 21 Clochandighter Terrace, Portlethen, Aberdeen, AB12 4TR (“the Respondent”)

Tribunal Members:

Evan Crainie (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession of the Property at 42 Fairview Way, Danestone, Aberdeen, AB22 8ZW should be granted.

Background

1. By application dated 9 October 2025, the Applicant sought an order under section 33 of 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 16 December 2025 the application was accepted by the Tribunal and referred for determination by the Tribunal.
3. A Case Management Discussion (“CMD”) was set to take place on 5 June 2026, and appropriate intimation of that CMD was given to both the Applicant and the Respondent.

The CMD

4. The CMD took place by way of teleconference on 05 June 2026. The Applicant was not present but was represented by Ms Sophie Reid from Aberdeen Considine LLP, Solicitors, Edinburgh. The Respondent was present.
5. The Tribunal asked various questions of the both the Applicant's representative and the Respondent with regard to the application
6. The Respondent confirmed that she was not contesting the eviction action and had moved out of the Property in September 2025. The Applicant's representative confirmed that the application was still being insisted upon as the Applicant believed the Respondent still held keys to the Property and that no formal notice of termination had been received. The Respondent confirmed that she did still hold keys and would return them to the Applicant.
7. The Tribunal noted that a Notice to Quit ("NTQ") had been served on the Respondent in 2021 in respect of the Property and queried with the Applicant's representative whether considering this, the Short Assured Tenancy was now in fact a Statutory Assured Tenancy in terms of section 16 of the Act. The Applicant's representative stated that the tenancy was a Short Assured Tenancy, with the NTQ that was served in 2021 not being signed. The Respondent confirmed receipt of the NTQ in 2021 but in any event that NTQ appears to have been defective as it was (i) not signed; and (ii) the date stated in the notice is not an ish. Therefore, the tenancy continued to be a Short Assured Tenancy.
8. The Tribunal further noted that an AT5 did not appear to have been served on the Respondent in respect of the most recent tenancy agreement signed in 2015 ("the 2015 Lease"). The Applicant's representative stated that the provisions of s32(3) of the Housing (Scotland) Act 1988 (as originally enacted) applied at the time of the 2015 Lease and therefore no AT5 was required to be served at the time. Those provisions (as originally enacted) are set out below and confirm that an AT5 was not required to be served in respect of the 2015 Lease as, per s32(3) of the Act, at the ish of the earlier tenancy entered into in 2013, the 2015 Lease was in respect of the same premises under which the landlord and the tenant were the same as at that ish and therefore the 2015 Lease is a short assured tenancy, whether or not it fulfilled the conditions in paragraphs (a) and (b) of s32(1).

"32. Short assured tenancies

- (1) *A short assured tenancy is an assured tenancy—*
 - (a) *which is for a term of not less than six months; and*
 - (b) *in respect of which a notice is served as mentioned in subsection (2) below.*
- (2) *The notice referred to in subsection (1)(b) above is one which—*
 - (a) *is in such form as may be prescribed;*
 - (b) *is served before the creation of the assured tenancy;*

(c) is served by the person who is to be the landlord under the assured tenancy (or, where there are to be joint landlords under the tenancy, is served by a person who is to be one of them) on the person who is to be the tenant under that tenancy; and
(d) states that the assured tenancy to which it relates is to be a short assured tenancy.

(3) Subject to subsection (4) below, if, at the end of a short assured tenancy—
(a) it continues by tacit relocation; or
(b) a new contractual tenancy of the same or substantially the same premises comes into being under which the landlord and the tenant are the same as at that end,

the continued tenancy or, as the case may be, the new contractual tenancy shall be a short assured tenancy, whether or not it fulfils the conditions in paragraphs (a) and (b) of subsection (1) above.

(4) Subsection (3) above does not apply if, before the beginning of the continuation of the tenancy or, as the case may be, before the beginning of the new tenancy, the landlord or, where there are joint landlords, any of them serves written notice in such form as may be prescribed on the tenant that the continued or new tenancy is not to be a short assured tenancy.

(5) Section 25 above shall apply in relation to a short assured tenancy as if in subsection (1) of that section the reference to an assured tenancy were a reference to a short assured tenancy.”

9. The Respondent was asked whether she provided the Applicant with any sort of notice that she had vacated the Property, she said she had not and believed that the Applicant would have been aware of her vacating the Property as the Applicant lives in the same street as the Property. The Respondent confirmed that the Property has been cleared of her belongings, all that is left is the Applicant's furniture.
10. The Respondent confirmed that she is a single parent and has two children. She has been in and out of work for a time and received some Housing Benefit in respect of the rent. The Respondent confirmed that she had no health issues which the Tribunal needed to be aware of.
11. The Tribunal explained that the only matter which appeared to require to be determined was whether it was reasonable to grant the order

Findings in Fact

12. The Applicant and the Respondent are respectively the landlord and the tenant of the Property by means of a tenancy agreement commencing on 10 April 2015.
13. The tenancy was a short assured tenancy in terms of the Act

14. On 9 June 2025 Sheriff Officers, under instructions from the Applicant's representative, served upon the Respondent a NTQ and a notice in terms of section 33(1)(d) of the Act. Said notices became effective on 11 August 2025.
15. The notices informed the Respondent that the Applicant wished to seek recovery of possession using the provisions of section 33 of the Act.
16. The notices were correctly drafted and gave appropriate periods of notice as required by law.
17. The basis for the order for possession was accordingly established.

Decision and reasons

18. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
19. The Tribunal considered all of the available evidence and the submissions of the Applicant's representative and the Respondent and was satisfied that it was reasonable to grant the order in circumstances where the Respondent (i) had vacated the Property in September 2025; (ii) was not contesting the application for eviction; and (iii) had moved to a new property.
20. 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.

Evan Crainie

5.6.26

Legal Member/Chair

Date