



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/25/2403

Re: Property at 0/2 91 Burghead Drive, Glasgow, G51 4QJ (“the Property”)

Parties:

Madam Damyantilal Jethmal, 30 Cassia Crescent, 04-04, not given, 391030, Singapore (“the Applicant”)

Mr Richard Harry, 0/2 91 Burghead Drive, Glasgow, G51 4QJ (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for possession relying on section 33 of the Housing (Scotland) Act 1988.

Background

1. By application dated 5 June 2025 the applicant seeks an order for eviction relying on section 33 of the Housing (Scotland) Act 1988. The applicant submitted the following documents with the application:

- Copy tenancy agreement
- Notice to quit
- Section 33 notice
- Form AT5
- Rent increase notice

- Property log from Property Bureau letting agents
 - Correspondence between letting agents and the respondent
 - Rent statements
2. A case management discussion (“cmd”) took place via teleconference on 15 January 2026. The applicant attended with her son, Kamal Jethmal who acted as her representative. The respondent attended on his own behalf. The applicant sought an order for eviction. The respondent opposed the application. The respondent stated that he had sought advice on a rent increase notice that had been served on him and had been advised that it was invalid.
 3. The Tribunal fixed an evidential hearing to determine the application. The Tribunal issued a Direction to parties following the cmd. The Direction required the applicant to submit written submissions setting out their position on the validity of the rent increase notice and setting out any other factors that the applicant wished to be taken into account in assessing the reasonableness of granting an order. The applicant was also required to submit details of any unsuccessful attempts to gain access to the property for the purpose of carrying out safety checks and/or repairs.
 4. The Direction required the respondent to submit written submissions stating the basis on which the rent increase notice was invalid and setting out any other factors the respondent wished the Tribunal to take into account in assessing the reasonableness of granting an order.
 5. In response to the Direction the applicant submitted detailed written submissions and the following documents:
 - Log of communications between the letting agents and the respondent
 - Correspondence with the respondent regarding rent increase
 - Correspondence with property factors
 - Rent statement
 6. The respondent did not submit any information in response to the Direction.

Hearing – 17 June 2026 - teleconference

7. The applicant attended with her son Kamal Jethmal. The respondent was not present or represented. The Tribunal was satisfied that the respondent had been properly notified of the hearing and proceeded with the hearing in his absence in terms of rule 29.

8. Mr Jethmal stated that the applicant had purchased the property as part of her financial planning for retirement. He stated that due to the outgoings associated with the property it had a negative financial impact on the applicant. He stated that the respondent had refused to pay the increased rent of £495 following service of a rent increase notice in October 2024 and had continuing paying rent of just £325 per month. Mr Jethmal stated that after payment of factoring fees, letting agent fees and maintenance costs the property was not profitable. Mrs Jethmal confirmed that her intention was to sell the property.

9. Mr Jethmal stated that as the applicant resided in Singapore she had relied on letting agents to serve the rent increase. As far as she was aware the rent increase was validly served however, if there was an error that was not due to any bad faith on the part of the applicant.

10. Mr Jethmal referred to the written submissions and log of communications with the respondent that had been submitted. He stated that the applicant had tried to carry out her obligations as a landlord properly however the respondent had refused to communicate with the letting agents since the rent increase notice was served. He stated that it had not been possible to carry out the required gas safety and other checks as the respondent had not allowed access which was a cause of concern for the applicant.

11. Mr Jethmal stated that the respondent had not attended the hearing or responded to the Direction. He stated that the applicant had been worried about the lack of engagement from the respondent. He stated that she had suffered financial and emotional stress as a result of the conduct of the tenancy.

Findings in fact

12. Parties entered into a short assured tenancy agreement with a commencement date of 18 August 2016.
13. Monthly rent due in terms of the agreement at the commencement date was £325.
14. Clause 2.2 of the tenancy agreement provides that the applicant is entitled to increase the rent after giving one months' notice to the respondent.
15. A rent increase dated 24 October 2024 was served on the respondent increasing the monthly rent to £495.
16. A valid notice to quit and section 33 notice were served on the respondent on 20 February 2025.
17. The applicant is 75 years old.
18. The applicant purchased the property as part of her financial planning for retirement.
19. The applicant intends to sell the property.
20. The respondent continued to pay rent at the original amount of £325 after the rent increase was served.
21. The respondent has failed to respond to reasonable requests for access to the property for the purpose of carrying out gas safety checks and inspections on a number of occasions since October 2024.
22. The applicant resides in Singapore. She relies on letting agents to manage the property.

- 23. The respondent failed to lodge written submissions setting out why the rent increase notice was invalid.
- 24. The respondent failed to attend the hearing to oppose an order for eviction or to challenge the information provided by the applicant.

Reasons for the decision

25. Section 33 of the Housing (Scotland) Act 1988 states:

33 (1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal may make an order for possession of the house if the Tribunal is satisfied—

(a) that the short assured tenancy has reached its finish;

(b) that tacit relocation is not operating; ...

(c)

(d) that the landlord (or, where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house, and

(e) that it is reasonable to make an order for possession.

26. In the present application it is not disputed that the applicants have satisfied the requirements of section 33 (a), (b) and (d). The Tribunal is satisfied that a short assured tenancy was created when the respondent moved into the property. A notice to quit and notice in terms of section 33 were served on 20 February 2025. The notice to quit had the effect of preventing tacit relocation from operating. The section 33 notice provided the tenant with notice that the applicant required possession of the house.

27. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an

order all available facts relevant to the decision were considered and weighed in the balance, for and against.

28. The Tribunal took into account the oral and written submissions of the applicant and Mr Jethmal. The Tribunal found both to be credible and had no reason to disbelieve the information provided by them. It was clear that Mr Jethmal had taken time to submit detailed written submissions addressing the issues highlighted by the Tribunal following the cmd.

29. The Tribunal gave weight to the fact that the applicant is 75 years old. She resides in Singapore. She had purchased the property as an investment however, it was not profitable and she now wished to sell the property as part of her retirement planning. The Tribunal accepted that the applicant had a genuine intention to sell the property. The Tribunal accepted and gave weight to the fact that the applicant was worried about the conduct of the respondent and his failure to engage with letting agents for the purpose of carrying out mandatory inspections and checks. The Tribunal also gave weight to the fact that the low rent being paid by the respondent of £325 was placing financial pressure on the applicant due to the costs associated with the property.

30. The Tribunal considered the respondent's position at the cmd that the rent increase notice had been invalid as an explanation for his payment of rent at the rate of £325. The respondent had failed to provide any written submissions to support his position. The Tribunal noted that the tenancy agreement contained a rent increase clause which allowed the rent to be increased with one months' notice. The rent increase notice had been served after the rent cap had ceased to be in force, and in any event the respondent had taken no steps to formally challenge the increase by submitting an application to the Tribunal.

31. The Tribunal took into account the information provided by the respondent at the cmd that he lived alone and was in employment. The Tribunal gave

significant weight to the fact that the respondent did not attend the hearing and provided no explanation for his absence.

32. Taking the foregoing circumstances into account the Tribunal determined that on balance it was reasonable to grant an order for eviction.

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.

Mary-Claire Kelly

Legal Member/Chair

17 June 2026_____
Date