



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/25/0611

Re: Property at 27 Kirkland Road, Dunlop, KA3 4AQ (“the Property”)

Parties:

Mr Steven Clarkson, 58 Druids Park, Perth, PH1 4EJ (“the Applicant”)

Mr John Lumb, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Robert MacDonald (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory process had been carried out correctly and that it was reasonable to grant the Order sought.

Background

1. The Applicants’ agent applied to the Tribunal under S33 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 (“the Rules”) on 12th February 2025.
2. Attached to application were-
 - i. A copy Notice to Quit;
 - ii. A copy Notice in terms of section 33 of the Housing (Scotland) Act 1988;
 - iii. Proof of service of the Notices on the Respondent;
 - iv. A copy Short Assured Tenancy Agreement between the parties;

- v. A copy form AT5;
- vi. A copy Notice in terms of s11 of the Homelessness etc (Scotland) Act 2003;
- vii. Evidence that the said notice had been intimated to North Ayrshire Council.

Previous procedure

3. The application was accepted by the Tribunal on the 13th of March 2025, and a Case Management Discussion (the "CMD") took place on the 20th of August 2025. At the CMD the Applicant was represented by Ms Deans from Emmerson Homes. The Respondent was not present or represented.
4. The Tribunal noted that letterbox service of case papers had been carried out by Sheriff officers at the property on 7th July 2025. The Applicants representative advised the Tribunal that the Respondent had moved into a nursing home prior to service of the papers. His current address was unknown to the Applicant.
5. Ms Deans advised the Tribunal that rent continued to be paid and the Respondents personal possessions remained in the property. She understood that the Respondents brother, who lived abroad, intended applying for a guardianship.
6. The case was adjourned to a further case management discussion for intimation of the application on the Respondent and for enquiries to be made with social work and the Respondent's guardian.
7. Subsequent enquiries by the Applicants agent with social work as to the whereabouts of the respondent were unsuccessful.
8. An application for service on the Tribunal website was made by the Applicant in terms of rule 6A of the Rules on 10th April 2026 and granted by the Tribunal on 14th April 2026.

Case Management Discussion

9. The case called for a CMD on the 22nd of July 2026. Ms Dean's appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent.
10. Intimation of the CMD had been carried out on the Respondent by advertisement on the Tribunal website from the 19th of June 2026.
11. On 22nd July 2026 Ms Deans emailed the Tribunal the text of an email she had received from Alistair Lumb, the guardian and brother of the Respondent. It stated that the Respondent suffered from dementia and was living in a home. The guardian had started emptying the property of the Respondents belongings and indicated his intention to visit Scotland in September to complete this task. He wished to meet with a representative of the Applicant at that time to do a handover of the property.
12. The Tribunal asked Ms Dean's for her submission in respect of the application. She sought an order for eviction but proposed that the earliest date for eviction be in 3 months' time to allow for the handover of the property as proposed by the Respondents guardian.

13. The Tribunal concluded that the facts in this case were sufficiently clear and that as it was not necessary to hear evidence in the case the Tribunal could make a decision at the CMD.

Findings in fact and law

14. The Applicant is the landlord, and the Respondent is the tenant in terms of a Short Assured Tenancy agreement entered into between the parties on 20th January 2014.
15. The correct statutory procedures in terms of the 1988 Act have been followed to terminate the Short Assured Tenancy agreement.
16. The Respondent has not resided in the property since before 7th July 2025.
17. The Respondent suffers from dementia and is now living in residential care.
18. Mr Alastair Lumb is the Respondents brother and has been appointed as his guardian.
19. The guardian does not oppose the application and wishes to liaise with the Applicant agents to ensure that the property is cleared and handed over to the Applicants.
20. The Respondent will not be made homeless because of the Tribunal's decision.
21. The Tribunal considered that it would be fair and reasonable that the eviction order be suspended for a period of 12 weeks until 14th October 2026 to allow the Respondent's guardian to arrange to hand over the property.
22. Having regards to the facts relevant to reasonableness the Tribunal considered that it was reasonable for an order for eviction to be granted.
23. This decision is unanimous.

Decision

24. The Tribunal grants an order for possession of the property suspended for a period of 12 weeks.

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.

Robert MacDonald

22.7.26

Legal Member/Chair

Date