



**Decision 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/25/3900**

**Re: Property at 39 Divernia Way, Barrhead, Glasgow, G78 2JL ("the Property")**

**Parties:**

**Ms Frances Casey and Mr Thomas Filmer, Cumbria House, 16-20 Hockliffe Street,  
Leighton Buzzard, Bedfordshire, LU7 1GN ("the Applicants")**

**Ms Anelise Quigg, 39 Divernia Way, Barrhead, Glasgow, G78 2JL ("the  
Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Ann Moore (Ordinary Member)**

**Decision (in absence of the Respondent)**

At the Case Management Discussion ("CMD") that took place by telephone conference on 21 May 2026 the Applicants were present and were represented by Ms Rebecca Crawford of Raeside Chisholm Solicitors Limited. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that –**

**Background**

The Tribunal noted the following background –

- i. The Applicants are the heritable proprietors of the Property.
- ii. The Applicants previously leased the Property to the Respondent in terms of a Short Assured Tenancy Agreement ("the SAT") that commenced on 1 September 2012.
- iii. The initial term of the SAT was for the period to 31 August 2013 and the tenancy has continued thereafter on a month to month basis all as prescribed therein.
- iv. The rent payable in terms of the SAT was initially agreed to be £550 per calendar month.

- v. On 28 February 2025, the Applicants' agent served on the Respondent by Sheriff Officers a Notice to Quit and Notices under Sections 18 and 33 of the Housing (Scotland) Act 1988 all dated 26 February 2026 requiring the Respondent remove from the Property by 1 June 2025.
- vi. The Notice under Section 18 of the 1988 Act is not valid.
- vii. The application proceeds under Section 33 of the 1988 Act.
- viii. As at the date of the application the rent arrears due by the Respondent to the Applicants under the SAT amounted to £9,575 with no payments having been made by the Respondent since October 2024.
- ix. The Applicants' agent has served on East Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

### **The CMD**

At the CMD Ms Crawford for the Applicants made the following oral representations in response to questions from the Tribunal:-

- i. The Applicants seek an eviction order.
- ii. The Respondent is still believed to be in occupation of the Property.
- iii. Ms Crawford had previously been contacted by the Council to confirm that the Respondent had vacated the Property on 27 April 2026. This contact was relative to Council Tax payable.
- iv. The Respondent subsequently emailed to say that she would vacate on 12 May and return the keys.
- v. On 11 May the Respondent emailed again to say that she had made a mistake and would vacate on 18 May.
- vi. Slater Hogg, the Applicants' agents, wrote to the Respondent on 19 May having expected the keys back the previous day. She replied saying the removal men were getting the last of her belongings and the keys would be returned on 20 May.
- vii. Prior to the CMD the Respondent was asked for an update. She said the keys would be returned tomorrow.
- viii. The Applicants do not live near to the Property.
- ix. The Respondent has two children aged around 14 and 16 years.
- x. The Respondent's relationship with her partner ended around 2 years ago.
- xi. The rent arrears are £15,875 as at 20 May 2026.
- xii. There has still been no payment by the Respondent since October 2024.
- xiii. The Respondent is believed to be working part-time.
- xiv. There are no known disabilities affecting the Respondent or her family.
- xv. There were no problems with the tenancy for the first 12 years.

### **Discussion**

The Tribunal noted that the application proceeds on the basis of Rule 66 of the Rules. Rule 66 states:-

***"66. Application for order for possession upon termination of a short assured tenancy***

*Where a landlord makes an application under section 33 (recovery of possession on termination of a short assured tenancy) of the 1988 Act, the application must—*

*(a) state—*

- (i) the name, address and registration number (if any) of the landlord;*
- (ii) the name, address and profession of any representative of the landlord; and*
- (iii) the name and address of the tenant;*

*(b) be accompanied by a copy of—*

- (i) the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give;*
  - (ii) the notice by landlord that the tenancy is a short assured tenancy;*
  - (iii) the notice given to the tenant under section 33(1)(d) of the 1988 Act;*
  - (iv) the notice to quit served by the landlord on the tenant;*
  - (v) a copy of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable); and*
  - (vi) a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable); and*
- (c) be signed and dated by the landlord or a representative of the landlord."*

The Tribunal noted that the application made by the Applicants did not include as a production the notice required in terms of Rule 66(b)(ii) being the Form AT5 Notice issued by the Applicants to the Respondent in terms of Section 32(2) of the 1988 Act. Production of that notice is a mandatory requirement of an application under Rule 66. At the CMD the Tribunal could not therefore be satisfied that the tenancy between the parties is indeed Short Assured.

Otherwise the Tribunal was satisfied that it would be reasonable to issue an eviction order under Section 33 of the 1988 Act on account of the substantial rent arrears accrued over a significant period of time.

The Tribunal therefore intimated to the Applicants that subject to the production of the Form AT5 Notice and subject to that Notice being in satisfactory terms the eviction order would be granted. The CMD was therefore adjourned for that purpose.

### **Subsequent Developments**

By email dated 9 June 2026 Ms Crawford advised the Tribunal that the Respondent had vacated the Property and sought to dismiss the application, an eviction order therefore no longer being necessary.

As at that date production of the Form AT5 Notice remained.

### **Decision**

The Tribunal dismisses the application.

### **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**



**Gillian Buchanan**

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**Legal Member/Chair**

**21 May 2026**

**Date**