



**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/26/0367

Re: Property at 10 Lomond Crescent, Condorrat, G67 4JJ ("the Property")

Parties:

Mr Gerard Docherty, 20 Thorniecroft Place, Cumbernauld, G67 4JU ("the Applicant")

Miss Diane Robb, 10 Lomond Crescent, Condorrat, G67 4JJ ("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"), which took place by telephone conference on 6 August 2026, the Applicant was in attendance and was represented by Ms Sophie Newberry of Clarity Simplicity 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 Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of a Short Assured Tenancy Agreement ("the SAT") that commenced on 1 August 2009.
- iii. The initial term of the tenancy was for the period to 8 February 2010 and the tenancy has continued thereafter on a month to month basis all as provided for within the SAT.
- iv. The rent payable in terms of the SAT was agreed to be £475 per calendar month.

- v. On 8 September 2025, the Applicant's agent served on the Respondent by Sheriff Officers a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) Act 1988 requiring the Respondent remove from the Property by 8 November 2025.
- vi. The Applicant's agent served on North Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vii. The Applicant seeks to recover possession of and sell the Property.

The CMD

At the outset of the CMD the Tribunal identified various errors in the Section 5 Paper Apart forming part of the Form E application. Ms Newberry asked to amend the Section 5 Paper Apart as follows –

- By deleting the last sentence of paragraph 2 thereof beginning with the words "A copy of ...";
- In paragraph 3 by amending the initial term of the tenancy from "6 months" to "6 months and 8 days"; and
- In paragraph 6 by deleting the first sentence beginning with the words "Notwithstanding the end date...".

Those amendments were allowed by the Tribunal.

Thereafter in response to questions from the Tribunal Ms Newberry and the Applicant stated:-

- i. The Applicant is aged 71 years.
- ii. When the Applicant purchased the Property in 2009 he took a "buy to let" interest only type mortgage. The mortgage ended 18 months ago and was extended. The Mortgage has subsequently being extended again until April 2027 when the balance of the capital due, being a sum of around £60,000, requires to be paid.
- iii. The Applicant is in receipt of his state pension and a small works pension which is used to pay the monthly mortgage commitment.
- iv. The Applicant is not in a financial position to repay the balance of the mortgage without selling in Property.
- v. If the Property is not sold the Applicant would be left in a dire financial situation.
- vi. The Applicant previously had one other rental property which is in the course of being transferred to his son. The Applicant's son moved into that property as a non-paying tenant. Work is in the course of being carried out within the communal area of the building of which the property forms part and once completed his son will take over the property entirely.
- vii. The Applicant no longer wants to be a landlord. He was only interested in being a landlord when he knew the people involved.
- viii. The Respondent continues to live in the Property with one of her sons who is around 21 years of age.
- ix. Previously the Applicant had received interest from someone who approached him to buy the Property. The Applicant therefore had a Home Report prepared. Around that time the Respondent indicated that she was due to be allocated a house by the local authority but had to be careful not to make herself homeless. The Council has since said that an eviction order is required from the Tribunal before her housing application can be progressed.
- x. The Applicant is aware that around 18 months ago the Respondent had a period in hospital due to mental health issues. He believes her son is at college.
- xi. The Applicant has not put any pressure on the Respondent to remove.
- xii. The Respondent has previously apologised for the process having to go through the Tribunal.
- xiii. There are rent arrears due by the Respondent. These have arisen due to a mix up that occurred in around December 2024 when the Respondent's payment

arrangements were changed to be paid by Universal Credit. The Respondent made a cash payment in April 2025. The total of the arrears are of the order of £5000 to £6000.

Findings in Fact

The Tribunal made the following findings in fact –

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of the SAT that commenced on 1 August 2009.
- iii. The initial term of the tenancy was for the period to 8 February 2010 and the tenancy has continued thereafter on a month to month basis all as provided for within the SAT.
- iv. The rent payable in terms of the SAT was agreed to be £475 per calendar month.
- v. On 8 September 2025, the Applicant's agent served on the Respondent by Sheriff Officers a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) Act 1988 requiring the Respondent remove from the Property by 8 November 2025.
- vi. The Applicant's agent served on North Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vii. The Applicant seeks to recover possession of and sell the Property.
- viii. The Applicant is aged 71 years.
- ix. When the Applicant purchased the Property in 2009 he took a "buy to let" interest only type mortgage.
- x. The mortgage ended 18 months ago and was extended. The mortgage has subsequently being extended again until April 2027 when the balance of the capital due, being a sum of around £60,000, requires to be paid.
- xi. The Applicant is in receipt of his state pension and a small works pension which is used to pay the monthly mortgage commitment.
- xii. The Applicant is not in a financial position to repay the balance of the mortgage without selling in Property.
- xiii. If the Property is not sold the Applicant would be left in a dire financial situation.
- xiv. The Respondent and her son remain in occupation of the Property.

Reasons for Decision

The Respondent did not attend and was not represented at the CMD. She had lodged no written submissions. The Applicant's written and oral representations were therefore unchallenged and were accepted by the Tribunal.

The application proceeds upon Section 33 of the 1988 Act.

Section 33 states:-

"Recovery of possession on termination of a short assured tenancy.

(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 ish;

(b) that tacit relocation is not operating;

(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."

The Tribunal is satisfied that the SAT has reached its ish and that tacit relocation is not operating.

The Tribunal is also satisfied that the Applicant has given proper notice to the Respondent that he requires possession of the Property having regard to the terms of Section 33(2).

The Tribunal requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 1(e).

Whilst the application gave no details as to why the Applicant intended to sell the Property he fully explained his reasons during the course of the CMD which primarily related to his obligation to replay the mortgage due on the Property by April next year which, without a sale, he would be unable to do. The deadline for repayment has already been extended twice. The Applicant spoke with credibility and his position was accepted.

The Tribunal determined that it is reasonable to grant an eviction order and made an order in appropriate terms.

Decision

The Tribunal grants an eviction order against the Respondent in favour of the Applicant.

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.

Gillian Buchanan

Legal Member/Chair

6 August 2026
Date