

**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/26/1078

Re: Property at 6 Fir Terrace, Gourock, PA19 1TG (“the Property”)

Parties:

**Mr Matthew Smith, Mrs Theresa Smith, Flat 2/1, 25 Brisbane Street, Greenock,
PA16 8LL (“the Applicant”)**

Ms Julie Cassidy, 6 Fir Terrace, Gourock, PA19 1TG (“the Respondent”)

Tribunal Members:

Fiona Stephen (Legal Member) and Robert Buchan (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for eviction be granted.**

Background

1. By application dated 9 March 2026 the Applicant sought an order for repossession of the Property under section 33 of the Housing (Scotland) Act 1988 (“the 1988 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 9 April 2026 the Application was accepted by the Tribunal.
3. A Case Management Discussion (CMD) was arranged to take place on 11 August 2026 at 2pm. Appropriate intimation of that hearing was given to both parties. The Respondent was served with intimation of the CMD, together with the papers by Sheriff Officers on 10 July 2026 in accordance with execution of service of the same date. Written representations were due to be lodged by the Respondent no later than 29 July 2026.

4. On 29 July 2026, the Respondent lodged written representations. She stated that she did not oppose the order for eviction but requested additional time to find alternative accommodation. She was currently seeking this. She stated that Inverclyde Council had accepted a homeless application and she needs to bid on suitable properties. She also has a “gold priority pass” with the Inverclyde Common Housing Register. She requires a 4-bedroom property but those are difficult to find. Three-bedroom properties are also expensive and difficult to find. Social housing will be more affordable for her as she is reliant on benefit income only. The Respondent has 3 adult children, ages 21,22 and 25 years old. Her youngest son does not live with her currently, but the elder children do. Her son has severe mental health problems, the other children suffer from anxiety, and she suffers from anxiety and depression. She requested a delay in enforcement of any order until 20 October 2026.
5. On 6 August 2026, the Tribunal wrote to the Applicant’s solicitor asking for his client’s position on the Respondent’s request for an extension to the enforcement of any order by 5pm on 7 August. He responded on the same day. Whilst his clients were not unsympathetic, given their wish to sell the property had been raised some time ago in the hope that the Respondent would actively seek alternative accommodation and leave voluntarily, they considered that any order should be granted in the normal timescale.
6. The CMD took place on 11 August 2026. The Applicant was represented by Mr Kenneth Caldwell of Patten & Prentice LLP, Greenock. The Respondent appeared on her own behalf.
7. The Tribunal had before it:
 - i. Short Assured Tenancy agreement dated 8 and 10 January 2011 between the Applicant and the Respondent, commencing on 1 December 2010 until 31 May 2012 and continuing monthly thereafter, until either party gives to the other party not less than two months’ notice of termination of let;
 - ii. AT5 Notice dated 1 December 2010;
 - iii. Notice to Quit dated 19 December 2025 ending the tenancy on 31 January 2026;
 - iv. Section 33 Notice dated 19 December 2025 stating that possession of Property was required on 19 February 2026;
 - v. Proof of service of iii and iv by Sheriff Officers dated 19 December 2025;
 - vi. Section 11 Notice dated 4 March 2026 with proof of service;
 - vii. Application in Form E dated 9 March 2026; and
 - viii. Case Papers.

Case Management Discussion

8. The Tribunal explained the purpose of the CMD and the powers of the Tribunal to determine matters. The Tribunal asked various questions with regard to the application.
9. Mr Caldwell submitted that this was a Short Assured Tenancy which had commenced in 2010, and repossession was based on the service of a section 33 Notice under the 1988 Act and a Notice to Quit, both of which were served by Sheriff Officers on 19 December 2025. Before the change to legislation concerning Short Assured Tenancies, it would have been mandatory for the Tribunal to grant the order for repossession. However, he wished to set out the reasons why the Applicant seeks repossession.
10. The Applicant wishes to sell the Property which used to be the Applicant's family home. The Applicant moved to a larger property in 2010 as their family grew. The Property was let to a family friend, the Respondent. Rent was £600.00 per month, and it has remained at this level ever since. That is below market rent. The Property has 3 bedrooms.
11. The Applicant had a daughter in March 2017, Sophia, who died from an infection at 11 days' old in the Queen Elizabeth University hospital, Glasgow. The Applicant has been involved in litigation since, with Thompsons, Solicitors acting for them. They participated in the Fatal Accident Inquiry in 2025 and are participating in the Hospital Inquiry which is ongoing. That is due to conclude in 2027. The Applicant has had to pay legal fees of around £30 000 and has endured financial hardship as a result. The Property has a value of between £125 000 to £130 000 and an outstanding mortgage of £80 000. The equity is needed to fund the legal expenses already incurred and to be incurred.
12. The Applicant told the Respondent in 2021 that they needed to sell the Property, and a firm of solicitors did serve a notice but that was ineffective. The Respondent has been fully aware that the Applicant needed to sell the house since then. She has had difficulty securing alternative accommodation. Mr Caldwell has been instructed since November 2025 and prepared the Notice to Quit and section 33 Notice. The Respondent has been aware since then of the Applicant's need to sell.
13. The Respondent has confirmed she does not oppose the order for repossession but wishes until 20 October before enforcement. Mr Caldwell submitted that this was not reasonable. The Respondent has three adult children. The two older children live with her. She has been looking for a 4-bedroom property which he accepted is scarce. He submitted that the Tribunal is aware that there is no obligation on the local authority to regard a person as homeless until an order is granted by the Tribunal. It is not certain that the local authority would deal with matters any sooner if the order for enforcement is delayed to 20 October. When one takes account of the appeal days and the time limit for Sheriff Officers to serve a Notice to Leave (14 days), it will be October before any order can be enforced in any event. The Applicant understands the Respondent's position but she has known their

situation for 5 years. The Applicant needs access to the equity in the Property and reasonableness cuts both ways.

14. Ms Cassidy said that she fully understands the circumstances of the Applicant. She is a family friend and although things have been fraught recently, that was never her intention. She has understood that the Applicant wished to sell for over 5 years. Unfortunately, her own circumstances changed. Ms Cassidy explained that her family has experienced serious trauma. Her son was seriously assaulted in an unprovoked attack in 2021. Since then he has suffered mental health issues. That has led to her and her daughters becoming unwell. If she had had to move in the past few years that would have been detrimental for her family. The Property is her home and she does not want to leave but appreciates it is not her property and this has to happen.
15. Ms Cassidy said she has applied for a 4-bedroom property because that is what social housing told her to do. After her son was removed from the Property, she told them she needed a 3-bedroom property. She has not secured a property so far. The private rental market is unaffordable. She is looking daily to see if there is anything suitable. She empathises with the Applicant. If she could get an extension on the order for enforcement she would appreciate that.
16. The Tribunal asked the parties some questions. The Tribunal had noted that the Notice to Quit was issued on 19 December 2025 against an ish date of 31 January 2026. The tenancy agreement set out in Clause 1 that after the initial term it would continue from month to month until either party gave the other not less than two months' notice of termination of the let. Should the ish date in the Notice to Quit have been end February 2026? Mr Caldwell's position was that the lease was in standard terms for a Short Assured tenancy. Two months' notice to terminate had been given by reference to the section 33 Notice and the Notice to Quit gave 42 clear days' notice to the ish. The tenancy terms were therefore complied with.
17. The Tribunal asked if Ms Cassidy could explain why she wanted a delay to enforcement until 20 October. That was a very specific date. She said this was on the advice of her solicitor who told her that usually an extension of 12 weeks would be granted so she ought to ask for 10. The Tribunal member explained that, from a practical point of view, if an order were granted today then nothing would happen until around that date anyway. Ms Cassidy said she was not aware that there would be a delay in enforcement.
18. Ms Cassidy confirmed that she was not in employment and relies on benefits. That pays the rent. She said that there had been an offer on the Property last year for around £100 000 with her as a sitting tenant but that did not go any further.
19. Mr Caldwell explained that the Applicant was willing to see if there might be sufficient interest in the Property. The offer of £100 000 was well below the

market rate. When refurbished the Property is probably worth around £180 000. The Applicant could not afford to accept an offer at such a level, but it showed that they were prepared to try and find a solution for the Respondent. The current rent was around £250-£300 below market rate but because Ms Cassidy was a family friend the Applicant had not wanted to raise it. Relations between them were strained right now.

20. The Tribunal adjourned to discuss matters. On reconvening, the Tribunal advised the parties that it was prepared to grant the order for repossession. It was not prepared to grant the Respondent's request for an extension to the date for enforcement of the order in all the circumstances given the Respondent had known for a considerable period that the Applicant required this order and that there would be a delay between the grant of the order and it being executed in any event. The parties were advised that a written decision would be issued as soon as possible.

Findings in Fact

21. The Applicant and the Respondent entered into a short assured tenancy agreement which commenced on 1 December 2010.
22. The tenancy was for an initial period from 1 December 2010 to 31 May 2012 and continued monthly thereafter until either party gave to the other not less than two months' notice of termination of let.
23. An AT5 Notice dated 1 December 2010 had been given to the Respondent prior to the tenancy commencing.
24. A Notice to Quit dated 19 December 2025 was served on the Respondent by Sheriff Officers on the same date stating that the tenancy would terminate on 31 January 2026.
25. A Notice in terms of Section 33 of the 1988 Act dated 19 December 2025 was served on the Respondent by Sheriff Officers on the same date stating that possession of the Property was required on 19 February 2026.
26. The tenancy reached its *ish* on 31 January 2026 and is not continuing by tacit relocation.
27. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
28. The Applicant wishes to sell the Property to realise the equity in it.
29. After sale, the Applicant needs to repay the mortgage.

30. The equity is required to fund significant legal fees that the Applicant has/is incurring in relation to various legal proceedings concerning the death of their daughter, Sophia.
31. Legal fees, so far, have cost in the region of £30 000.
32. The Applicant has not increased the rent of £600 per month since commencement of the tenancy.
33. The Respondent has known of the Applicant's wish to sell the Property since 2021.
34. The Respondent suffered a family trauma in 2021 when her son was seriously assaulted in an unprovoked attack.
35. The Respondent has been unable to move from the Property since 2021 as a result.
36. The Respondent does not object to an order for repossession being granted.
37. The Respondent has been and is actively looking for alternative accommodation.
38. The Respondent is in contact with the housing department of Inverclyde Council and another social housing provider.

Findings in Fact and Law

39. It is reasonable to grant an order for possession of the Property.
40. It is not reasonable to grant an extension to the enforcement of the order for possession.

Reasons for Decision

41. The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy and that a Section 33 Notice and Notice to Quit had been served on the Respondent. The Notice to Quit had been served to an ish of the tenancy (31 January 2026) so that tacit relocation is not operating. The section 33 Notice gave the Respondent two months' notice that the Applicant required possession of the Property. The Tribunal was satisfied that the tenancy agreement had been complied with.
42. The Respondent did not oppose the granting of the order for repossession. She has known for many years that the Applicant wished to sell the Property. The Tribunal was not persuaded that it should delay the enforcement of a repossession order to 20 October 2026 as requested by the Respondent as

enforcement of such an order will likely not occur until around that date in any event for the reasons set out in paragraph 20 above. Both parties have endured family tragedies and the Tribunal appreciates that the situation is difficult for them.

43. Having considered all of the circumstances, the Tribunal determined that it was reasonable to issue an eviction order.

44. The Tribunal also exercised the power within Rule 17 of the Rules and determined that a final order should be made at the CMD.

Decision

The Tribunal grants an Order for possession of the Property.

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.

**Fiona Stephen
Legal Member/Chair**

**11 August 2026
Date**