



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 66 of the Procedure Rules.

Chamber Ref: FTS/HPC/EV/26/0492

Re: 32 Holm Dell Drive, Inverness, IV2 4GX ("the Property")

Parties:

Lewis Fraser, Knockarroch, Whitebridge, Invernessshire, IV2 6UP ('the Applicant')

Tughan & Cochrane Ltd Marr House, Beechwood Park, Inverness, IV2 3BW ('the Applicant's Representative')

Margaret Lawrie residing at 32 Holm Dell Drive, Inverness, IV2 4GX ('the Respondent')

Ron Mackenzie, Housing Adviser, Inverness Badenoch and Strathspey Citizens Advice Bureau ('the Respondent's Representative')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')

Tribunal Member: Jacqui Taylor (Legal Member) Tony Cain (Ordinary Member)

1. Background

The Applicant applied to the Tribunal for eviction/ possession of the Rented Property in terms of Rule 66 of the Procedure Rules. The application was dated 25th February 2026. The application concerns eviction proceedings in relation to a short assured tenancy of the Property in terms of section 33 of the Housing (Scotland) Act 1988 and was in the following terms:

'The property owner wishes to recover possession on the grounds of the termination of the short assured tenancy under section 33 of the Housing (Scotland) Act 1988.'

2. Documents lodged with the Tribunal were:-

2.1 The Short Assured Tenancy Agreement between the Applicant and William Lawrie dated 1st May 2013. The period of the tenancy was from 1st May 2013 to 2nd November 2013 and month to month thereafter.

2.2 AT 5 dated 26th April 2013.

2.3 Section 33 Notice dated 23rd October 2025 addressed to Margaret Lawrie giving her notice to vacate the Property on or before 2nd January 2026.

2.4 A copy of the Notice to Quit dated 23rd October 2025 giving the Tenant formal notice to quit the Property by 2nd January 2026.

2.5 Certificate of Intimation by Robert White, Sheriff Officer certifying service of the Notice to Quit and Landlords Notice to Terminate the tenancy on the Respondent on 28th October 2025.

2.6 A copy of the Section 11 Notice addressed to The Highland Council.

2.7 An email from The Highland Council dated 30th January 2026 acknowledging receipt of the section 11 Notice.

3. By Notice of Acceptance by Karen Moore, Convener of the Tribunal, dated 30th March 2026, she intimated that she had decided to refer the application (which application paperwork comprises documents received between 30th January 2026 and 25th February 2026) to a Tribunal.

4. The Respondent's Written Representations.

The Respondent's Representative sent the Tribunal written representations dated 21st July 2026 in the following terms:

'Ron MacKenzie, Housing Adviser, Inverness Badenoch & Strathspey CAB, will represent the Respondent at the CMD. The authorisation mandate to do so is attached. The respondent does not wish to contest the Applicant's application for an eviction order. It should be noted that the Respondent's household comprises of 2 adults, the Respondent, and her granddaughter. The respondent made a homeless application with the Highland Council on 16/07/26 requesting a 2-bedroom property. The Council will assess the application and will decide within a 28-day period whether to accept a homeless duty. The Respondent will be notified of that decision in writing. The Highland Council's homelessness policy states that the Council will ordinarily accept a homeless duty when a landlord's application for an eviction order is granted

by the First Tier Tribunal (Housing & Property Chamber), which it is assumed will be granted at the case management discussion on 12/08/26 as the Respondent is not opposing the application. On this basis, the Respondent respectfully asks the Applicant for a reasonable period to lapse before he applies to the Sheriff Court for the eviction order to be executed. This is in recognition of the current housing shortages within the city of Inverness, particularly for 2-bedroom properties in reasonable areas of the city. In this case, it is requested that the Applicant delays the application for execution of the eviction order until Friday, 09/10/26 to allow the Highland Council a reasonable period in which to allocate the Respondent and her granddaughter.'

5. Statement of the Applicant dated 24th July 2026.

The Applicant lodged a signed statement in the following terms:

'32 Holm Dell Drive, Inverness, was my home until I relocated for employment in 2012. Following my relocation, I lived and worked in Aberdeen, London and, latterly, Copenhagen. As I was no longer living at the property, I chose to let it rather than leave it vacant. During 2024 I made plans to return permanently to Scotland. One of the reasons for my return was to be closer to my elderly parents due to their declining health. As part of those plans, I had already concluded that I would need to sell 32 Holm Dell Drive in order to fund the purchase of another home. I also began looking for a suitable property and, in July 2024, viewed a house with the intention of purchasing it following my return. I moved my belongings back to Scotland during the autumn of 2024. My Danish residency formally ended on 31 December 2024, and I commenced employment in the United Kingdom on 1 January 2025. Since returning, I have been living with my parents on a temporary basis because I am unable to purchase another home until 32 Holm Dell Drive has been sold. On 9 October 2025, I instructed Harper Macleod LLP to act on my behalf in connection with the sale of 32 Holm Dell Drive. I attach their letter of engagement dated 9 October 2025 confirming those instructions. This demonstrates that my intention to sell the property was genuine and well established before these proceedings commenced. My intention has remained unchanged throughout. The sale has been delayed solely because the tenancy has had to proceed through the statutory process. I appreciate that this situation has been difficult for the tenant and that she requires suitable alternative accommodation. However, I require the proceeds from the sale of 32 Holm Dell Drive to purchase my next home. For these reasons, I respectfully submit that it is

reasonable for the Tribunal to grant the eviction order, enabling the property to be sold in accordance with my longstanding intention.'

6. Case Management Discussion

6.1 This case called for a Case Management Discussion (CMD) Conference call at 14.00 on 12th August 2026.

The Applicant was represented by Mr Cochrane. The Respondent attended along with her Representative Ron Mackenzie.

6.2 The parties agreed the following facts:

6.2.1 Lewis Fraser is owner of the Property.

6.2.2 The Landlord named on the lease is Lewis Fraser.

6.2.3 The Tenant named on the short assured tenancy agreement is William Lawrie.

6.2.4 Margaret Lawrie succeeded to the tenancy following the death of her husband William Lawrie.

6.2.5 The original term of the Tenancy was from 1st May 2013 to 2nd November 2013 and month to month thereafter.

6.2.6 The Notice to Quit and Section 33 Notice were served on the Respondent on 23rd October 2025.

6.3 Oral Representations by the parties.

6.3.1 Mrs Lawrie confirmed that her husband William Lawrie had died on 21st December 2020.

6.3.2 Mr Cochrane explained that he sought the eviction order in terms of the Short Assured Tenancy rules as his client wishes to sell the Property. Mrs Taylor asked him to comment upon the effect of section 31A of the Housing (Scotland) Act 1988 which makes provision for succession to a tenancy were a tenant of a short assured tenancy died after 1st December 2017. He explained that a member of his staff had thought that Mr Lawrie had died before 1st December 2017. He suggested that the CMD could be adjourned to allow time for the death certificate to be produced to verify the date of death. Mrs Taylor then asked him to comment upon the effect of section 31 of the Housing (Scotland) Act 1988 which provides that on succession of a tenancy were a tenant of a short assured tenancy died before 1st December 2017 the tenancy becomes a statutory assured tenancy. He accepted that in either version of events the paperwork was not correct.

6.3.3 Mr Mackenzie explained that notwithstanding the difficulties with the paperwork Mrs Lawrie was agreeable to the eviction being granted.

7. Decision.

7.1 The Tribunal accepted Mrs Lawrie's verbal confirmation that her late husband William Lawrie had died on 21st December 2020.

7.2 The Tribunal found that section 31A of the Housing (Scotland) Act 1988 applies to this tenancy as William Lawrie had been the sole tenant of the Property and he had died after 1st December 2017. Mrs Lawrie had succeeded to her husband's short assured tenancy and in terms of section 31A(2) as soon as Mrs Lawrie became tenant of the Property the tenancy ceased to be an assured tenancy and it became a Private Residential Tenancy.

7.3 The Application to the Tribunal is to grant an eviction order in terms of section 33 of the Housing (Scotland) Act 1988. The Tribunal determined that is unable to grant the eviction application as the tenancy is not a short assured tenancy.

7.4 In addition, as the statutory provisions for eviction applications in relation to private residential tenancies specified in the Private Housing (Tenancies) Scotland Act 2016, have not been complied with the Tribunal are unable to grant the eviction.

7.5 Separately, the Tribunal finds that if the date of death of William Lawrie was before 1st December 2017, and it has no reason to suspect that this was the case given that Mrs Lawrie confirmed the date of her husband's death as being 21st December 2020, as the statutory provisions for eviction applications in relation to statutory assured tenancies specified in the Housing (Scotland) Act 1988 have not been complied with the Tribunal would be unable to grant the eviction.

7.6 The Tribunal dismisses the Application.

8. 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.

Jacqui Taylor

Legal Member

11th August 2026