Housing and Property Chamber
First-tier Tribunal for Scotland

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 ("the Act") and Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules")

Chamber Ref: FTS/HPC/EV/26/2517

Re: Property at 4 Anderson Place, Carnoustie, DD7 7HU ("the Property")

Parties:

A & G Properties Scotland Limited, 71 Queen Victoria Street, London, EC4V 4BE ("the Applicant")

Ms Michelle Sim, 4 Anderson Place, Carnoustie, DD7 7HU ("the Respondent")

Tribunal Members:

Evan Crainie (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application dated 03 June 2026 ("the Application"), the Applicant sought an Eviction Order against the Respondent under Section 33 of the Act.

2. The application was accompanied by copies of:
    a. Copy Short Assured Tenancy Agreement between the Parties, running from 01 May 2017 to 30 November 2017, and, if not terminated on that date, continuing on a monthly basis thereafter;
    b. Form AT5 Notice dated 01 May 2017;
    c. Copies of a Notice under Section 33 of the Act and a Notice to Quit, both dated 27 February 2026 and both requiring the Respondent to vacate the Property by 01 May 2026;

d. Copy notice under Section 11 of the Homelessness Etc. (Scotland) Act 2003 to Angus Council being the relevant local authority;
e. Rent statement showing rent arrears amounting to £8,779 as at 1 June 2026; and
f. Correspondence to the Respondent in respect of the pre-action protocol.

3. On 2 September 2026, the Tribunal advised the Parties of the date and time of a Case Management Discussion ("CMD"), and the Respondent was invited to make written representations by 23 September 2026. The Respondent did not make any written representations to the Tribunal.

The CMD

4. A CMD was held by means of a telephone conference call on 23 October 2026. The Applicant was not present but was represented by Ian Sargison of Thorntons Solicitors, with Emma Paterson of Thorntons Solicitors listening in. The Respondent was neither present nor represented.

5. The Tribunal delayed the beginning of the CMD by ten minutes to allow parties to attend. With regards to the Respondent the Tribunal was satisfied, in terms of Rule 29, that the requirements of Rule 24(1) regarding the giving of notice of a hearing had been duly complied with by reason of a sheriff officer certificate of intimation in respect of the Respondent. Therefore, the Tribunal proceeded to hear the Application.

6. The Tribunal asked various questions of the Applicant's representative with regard to the Application.

7. The Applicant's representative confirmed that the Applicant wished to continue to seek an eviction order. The Tribunal was content that the correct statutory procedures had been carried out. In respect of reasonableness, the Applicant's representative explained that, in his submission, it is reasonable to grant the eviction order.

8. On reasonableness, the Applicant's representative submitted: -

    a. The most pertinent point is that the level, length and persistence of the arrears means that it is reasonable to grant the order. At the date of the CMD, the arrears were more than £11,000 which equated to around 14 months rent. There had been one payment received in October 2025 of £800, but nothing has been received in the last 12 months. The arrears are increasing each month and there is no sign these will be reduced;
    b. The Respondent has had warning of these proceedings and repeatedly broken undertakings to make payment. Letters were sent to the Respondent in February and March 2026 (of which the Tribunal had sight) in respect of the arrears. There have been proposals to clear the arrears, but these have never been acted upon by the Respondent. The

Respondent does not engage with the Applicant in any meaningful way in respect of proposals to repay the arrears;

c. The Respondent is in employment and so far as the Applicant is aware, she therefore has an ability to pay the arrears so the failure to pay does not appear to be due to a lack of means. So far as the Applicant is aware, there are no benefits issues or evidence of financial hardship;
d. The Respondent has mentioned some health issues to the Applicant by email, but no medical evidence has been lodged to substantiate these health issues or show how the health issues have resulted in the failure to pay;
e. The Respondent's partner and his two children reside at the Property. The Respondent's partner has notified the Applicant that the relationship has broken down, and the Respondent is currently living with her mother. The Respondent's partner is in the process of seeking assistance from the local authority to be rehoused with his children. The Respondent's partner is not named on the tenancy agreement, and the Applicant has made clear that it will not transfer the tenancy to the Respondent's partner or grant him a new one;
f. In respect of the Respondent's partner's children, he is engaging with the local authority and looking for alternative accommodation;
g. The Applicant has been deprived of rent for a long time which is impacting their ability to meet their secured lending against the Property. There have been previous undertakings of repayment, and these have been broken. The Applicant has lost confidence in the Respondent's ability to pay the arrears and ongoing rent. As a result, the Applicant wishes to re-let the Property; and
h. Considering all of the above, it was the Applicant's representatives' submission that granting the order was reasonable and the balance falls in favour of granting the order.

9. On questioning from the Tribunal, the Applicant's representative was not aware how long the Respondent's partner and his children had lived at the Property. Nor was he aware of the ages of the children. This was due to the limited engagement of the Respondent.

Findings in Fact

10. From the Application, the written representations and the CMD, the Tribunal made the following findings in fact:
    a. The Applicant is the owner of the Property.
    b. There is a short assured tenancy in place between the Parties.
    c. The tenancy commenced on 01 May 2017 for a period of 6 months. It has continued since that date on a monthly basis until 01 May 2026.
    d. The form AT5 dated 01 May 2017 was in the prescribed format and the original short-assured tenancy agreement between the parties which commenced on 01 May 2017 was validly constituted.

e. The Notice to Quit and the section 33 notice all dated 26 February 2026 stated that the Applicant required vacant possession of the property on or before 01 May 2026. These provided more than two months' notice of vacant possession.
f. The notices dated 26 February 2026 were validly served on the Respondents by sheriff officer on 27 February 2026.
g. The tenancy reached its ish on 01 May 2026.
h. There are arrears of rent in the amount of £11,173.75 as at the date of the CMD.

Decision and Reasons for Decision

11. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a CMD which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

12. Section 33 of the Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its ish, that tacit relocation is not operating, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.

13. The Tribunal was satisfied that the short-assured tenancy agreement between the parties had been validly constituted. It was also satisfied that the short assured tenancy had reached its ish; that tacit relocation was not operating; and that the Notice to Quit and section 33 notice dated 26 February 2026 had been validly served on the Respondent, for the reasons set out above.

14. The Tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.

15. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, the written representations lodged on behalf of the Applicant, and the oral information and submissions provided by the Applicant's representative at the CMD.

16. The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah 1947 SC 245* whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.

17. In the absence of any appearance by the Respondent or any written representations from her, the information available to the Tribunal about her circumstances was limited.

18. The Tribunal had regard to Mr Sargison's submissions set out at Paragraph 8 above and the fact that the Respondent has been in arrears since on or around

July 2025 and had failed to adhere to previous payment plans. The Tribunal's view is that the level of arrears being £11,173.75 combined with the failed payment plans and length of time which arrears have existed leads to it being untenable for the Respondent to continue as a tenant in the Property. The Respondent was also made aware of the consequences of failing to pay. The Tribunal found that the Applicant is entitled to receive payment of rent and that this entitlement outweighs the Respondent's rights to remain in the Property. Accordingly, the Tribunal was satisfied that it is reasonable to issue an Eviction Order.

19. The Tribunal determined that the application be granted and that an eviction order be made. The decision is unanimous.

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.

Evan Crainie

Legal Member/Chair

23rd October 2026

Date