

**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**

**Chamber Ref: FTS/HPC/EV/23/3806**

**Re: Property at Flat 3, 23 Laurie Street, Edinburgh, EH6 7AB (“the Property”)**

**Parties:**

**Mr Brian Warner, 13 Meadow Lane, Edinburgh, EH8 9NR (“the Applicant”)**

**Mr David Conway, Flat 3, 23 Laurie Street, Edinburgh, EH6 7AB (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

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

**Introduction**

1. This application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order.
2. Intimation of the application and of the Case Management Discussion (‘CMD’) was effected upon the respondent by Sheriff officers on 5 January 2024.
3. Both parties joined the hearing personally and represented their own interests.

## Findings and Reasons

4. The property is Flat 3, 23 Laurie Street, Edinburgh EH6 7AB. The applicant is Mr Brian Warner. He is the heritable proprietor and registered landlord of the property. The respondent is Mr David Conway who is the tenant.
5. The parties entered into a short assured tenancy which commenced on 5 January 2015. An AT5 Notice under section 32 of the 1988 Act was served on the respondent prior to the creation of the tenancy. The initial period of let was between 5 January 2015 and 1 August 2015. There was provision within the lease that the tenancy continued on a month to month basis thereafter.
6. On 9 June 2023 the applicant served upon the respondent a Notice to Quit. In the terms of the said Notice to Quit, the applicant gave notice to the respondent that he would require to remove from the property on or before 1 September 2023. Further, on 9 June 2023, the applicant served upon the respondent Notice under Section 33(1)(d) of the Housing (Scotland) 1988 stating that possession was required of the property as at 1 September 2023. An execution of service from Sheriff Officers evidences the service of these documents upon the respondent.
7. The short assured tenancy between the parties has reached its end. Tacit relocation is not operating. No further contractual tenancy is in existence. The applicant has complied with the terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.
8. The tribunal also requires to consider the reasonableness of the eviction order being granted due to the permanent amendments introduced by s44 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022. The parties whole circumstances were therefore considered and weighed up.
9. The applicant seeks to evict the respondent on the grounds that he intends to sell the let property. The parties are on good terms and have known one another for many years. The applicant is 79 years old and has a wife and son to support. His son has additional support needs. He wishes to financially plan for their future. He has a mortgage over the property and the mortgage rate is due to rise significantly, this in the context of the rent for the let property being considerably below the market rate. The property now requires considerable upgrading and there are common repairs which are also anticipated. Overall the retention of the let property is a now burden. The applicant is hopeful that another property which he lets out will become available later in the year which he will offer to the respondent.
10. The respondent is not opposed to the eviction application. He is 72 years of age. He lives in the let property alone and has done so since 1995. He respects

the reasons why the applicant wishes to recover possession. He is in reasonably good health.

11. A section 11 notice under the Homelessness etc (Scotland) Act 2003 has been issued to the City of Edinburgh Council. In the event of an eviction order being made the local authority is under a statutory duty to make suitable alternative accommodation available.
12. The tribunal concluded that it was reasonable to grant the eviction order. It was a matter of agreement between the parties that the earliest date to be specified in the order that the eviction can be implemented should be 31 August 2024.

### **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.**

**23 February 2024**

**Legal Member/Chair** \_\_\_\_\_

\_\_\_\_\_  
**Date**