



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/25/5279

Re: Property at 31 Haddington Road, Tranent, East Lothian, EH33 1LS (“the Property”)

Parties:

Mr Robert Gordon, 3 Melville Crescent, Edinburgh, Midlothian, EH3 7HW (“the Applicant”)

Graham Burton 31 Haddington Road, Tranent, East Lothian, EH33 1LS (“the Respondent”)

Tribunal Members:

Hilary MacAndrew (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

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

1) Background

- 1.1 By application dated 5 December 2025 the applicant sought an order under section 33 of the Housing (Scotland) Act 1988 (The Act) and in terms of rule 66 of the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017.
- 1.2 On 2 February 2026 Application was accepted by the Tribunal and referred for determination by the Tribunal.
- 1.3 A Case Management Discussion was set to take place on 1 June 2026 and appropriate intimation of that hearing was given to both the landlord and the tenants.

- 1.4 The Case Management Discussion (CMD) took place on 20 May 2026. The applicant was represented by Mr Urquhart of D J Alexander the Applicant's Letting Agent. The applicant was not present. The Respondent was neither present nor represented. The Respondent had not lodged any form of response.

2) Discussions at CMD

- 2.1 The Tribunal asked various questions of the applicant's representative with regard to the application.
- 2.2 In answer to the questions posed by the Tribunal it was confirmed the Respondent Graham Burton is now the sole tenant of the property and the relevant notices had been served and received. The property is a semi-detached dwellinghouse in a residential area of Tranent.
- 2.3 Mr Urquhart narrated that the applicant was seeking to recover possession of the property to live in the property. The applicant is currently living abroad and wishes to return to live in the property. He owns no other properties. His health is failing. He is 67 years of age.
- 2.4 The Applicant had lodged, via his agent, with the Tribunal a detailed statement in support of the reasonableness of the application.
- 2.5 Mr Urquhart was able to answer the Tribunal's questions regarding the Applicant's personal situation and also the Respondent's personal situation. The Respondent does not keep in touch with the Letting agents who have been factoring the property since 2023. The Respondent is believed to be staying there on his own with no dependants, his former partner and former co-tenant having moved out of the property some time previously. The Respondent has not been represented in these proceedings. The Applicant's representative was able to narrate attempts made to be in touch with the Respondent since Notice to Quit was served, and since the application was made to the Tribunal. He narrated letters having been sent and personal visits to the property. He narrated one telephone call being the only response from the Respondent in January 2026 when the Respondent advised that he was looking for alternative accommodation through the Local Authority.
- 2.6 The Tribunal explained that the only matter which appeared to require to be determined was whether it was reasonable to grant the order.

3) Findings in Fact

- 3.1 The Applicant and the Respondent are respectively the landlord and the tenant of the property by means of a Tenancy Agreement originally commencing on 31 May 2017.

- 3.2 The tenancy was a Short Assured Tenancy in terms of The Act.
- 3.3 The initial Tenancy Agreement was entered into by the Respondent and his former partner. The former partner was released from the tenancy by virtue of a Deed of Variation and the Respondent was informed of this on 31 August 2022. The Respondent at the date of lodging the application and notices being served is the sole tenant.
- 3.4 On 16 September 2025 the Applicant's agent served upon the Respondent a Notice to Quit and a Notice in terms of Section 33 (1) (d) of the Act. These notices were served on the Respondent by sheriff officers. Said Notices became effective on 30 November 2025.
- 3.5 The Notices informed the Respondent that the Applicant wished to seek recovery of possession using the provisions of Section 33 of the Act.
- 3.6 The Notices were correctly drafted and gave appropriate periods of notice as required by law.
- 3.7 The basis for the Order for Possession was accordingly established.

4) Decision and Reasons

- 4.1 When the 1988 Act was originally passed the eviction process under Section 33 was mandatory. The Tribunal was required by law to grant the Eviction Order if satisfied that required notices in terms of that Section had been served upon the tenant.
- 4.2 Since 7 April 2020 in terms of changes initially made by the Coronavirus (Scotland) Act 2020 and then by the Coronavirus (Recovery and Reform) (Scotland) Act 2022 an Eviction Order on this basis can only be granted if the Tribunal is satisfied that it is reasonable to issue an Eviction Order.
- 4.3 In determining whether it is reasonable to grant the order the Tribunal was required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
- 4.4 The Tribunal has a duty in such cases to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the Tribunal to grant the order or decline to grant the order will be relevant.
- 4.5 In this case the Tribunal finds it is reasonable to grant the order.
- 4.6 The Tribunal accepts that the Respondent is a single man with no known dependants. He is currently unemployed. He has been in touch with the applicant's representative making reference to seeking housing through the local authority.

- 4.7 The Respondent has failed to provide any representations or evidence to the Tribunal to indicate any reason why the order should not be granted.
- 4.8 The balance of reasonableness is weighted towards the applicant in this application.
- 4.9 The Tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 and determined that a final order should be made at the CMD. The decision is the Order for Recovery of Possession is granted.

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.

H.Macandrew

Legal Member/Chair

9th June 2026 _____

Date