



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Sections 18 and 33 of the Housing
(Scotland) Act 1988**

Chamber Ref: FTS/HPC/EV/21/2718

**Re: Property at 4 Lammerview Terrace, Gullane, East Lothian, EH31 2HB (“the
Property”)**

Parties:

**Mrs Hazel Saunders, 17 The Pines, Gullane, East Lothian, EH31 2DT (“the
Applicant”)**

**Mrs Kerri Brydon, 4 Lammerview Terrace, Gullane, East Lothian, EH31 2HB
 (“the Respondent”)**

Tribunal Members:

Mary-Claire Kelly (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to grant an order for recover of possession.**

Background

1. By application received on 3rd November 2021 the applicant seeks an order for recovery of possession. The applicant seeks to rely on ground 6 in Schedule 5 of the Housing (Scotland) Act 1988, namely that the property requires extensive refurbishment or substantial works to be carried out. The applicant also seeks to rely on section 33 of the Act.
2. The following documents were lodged with the application
 - Copy lease
 - Section 33 notice
 - Form AT6
 - Correspondence between the applicant and East Lothian Council
 - Letter from the respondent

Case management discussion (“cmd”) – 17th January 2022- teleconference

3. A cmd took place by teleconference on 17th January 2022. Both parties were in attendance.
4. The applicant confirmed that she sought to rely on her section 33 notice and also ground 6. In relation to the section 33 ground the Tribunal noted that a valid notice had been served dated 26th April 2021 and requesting that the tenant vacate the property by 31st October 2021.
5. The applicant referred to the list of works which required to be carried out to the property specified in her letter to East Lothian Council dated 11th May 2021. The works required included:
 - New bathroom
 - New kitchen
 - New central heating system
 - Complete rewire of the electrics
 - Replacement of all windows
 - New flooring through out
 - Compete redecoration throughout
6. The respondent confirmed that the works specified were necessary.
7. The respondent advised that she lives with her daughter who is eighteen years old. Her daughter suffers from multiple disabilities including autism, scoliosis, a heart condition and learning disability. The respondent’s daughter has complex physical and mental health needs. The respondent explained that the accommodation was unsuitable for her daughter. She further explained that due to her daughter’s illnesses it would not be possible for her to remain in the property whilst substantial works were carried out. The respondent explained that she had approached East Lothian Council for assistance with her accommodation issues. She has been advised that if an eviction order is granted the local authority will be able to provide suitable accommodation which better meets the family’s needs, and particularly that of the respondent’s daughter.
8. The respondent explained that she did not wish to defend the action.

Findings in fact

9. Parties entered into a short assured tenancy agreement with a commencement date of 22nd December 2016.
10. A valid section 33 notice was served on 26th April 2021.
11. The applicant intends to carry out substantial remedial works to the property.

Reasons for the decision

12. The Tribunal took into account parties’ written and oral representations and the documents which had been lodged with the application.
13. The Tribunal found that substantial works required to be carried out to the property and that ground 6 had been established subject to consideration of whether it was reasonable to grant an order for eviction in terms of section 18(4) of the Act.
14. The Tribunal found that a ground of recovery of possession had been established on the basis of section 33 subject to the consideration of whether it was reasonable to grant an order in terms of that section.

15. In considering whether it was reasonable to grant an order the Tribunal took into account that the accommodation was unsuitable for the respondent's daughter due to her complex physical and mental health needs. The Tribunal took into consideration that it would not be possible for the respondent and her family to continue to live in the property whilst repairs were carried out. The Tribunal took into account the lack of opposition to an order being granted.
16. In the foregoing circumstances the Tribunal considered it reasonable to grant an order for recovery of possession.

Decision

17. The Tribunal determined to grant an order for recovery of possession.

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.

M-C. Kelly

Legal Member/Chair

Date: 17th January 2022