



**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/24/3668

**Re: Property at (PF1) 20 Springvalley Gardens, Edinburgh, EH10 4QE (“the
Property”)**

Parties:

**Mr Cliff Anderson, 24 Easter Belmont Road, Edinburgh, EH12 6EX (“the
Applicant”)**

**Mr Paul Taylor, (PF1) 20 Springvalley Gardens, Edinburgh, EH10 4QE (“the
Respondent”)**

Tribunal Members:

Melanie Barbour (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. An application was received under rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession of the property under a short assured tenancy granted by the Applicants to the Respondents.
2. The application contained :-
 - a. A copy of the tenancy agreement,

- b. a copy of the AT5,
 - c. a copy of the Section 33 Notice,
 - d. a copy of the Notice to Quit,
 - e. evidence of service,
 - f. Section 11 Notice, and
 - g. Rent statement
3. The case had called for a case management discussion on 4 April 2025. Appearing was the Applicant's agent, Mr Barr from DJ Alexander. There was no appearance for the Respondent. There was evidence of service of the application on the respondent on 3 March 2025. The tribunal proceeded in his absence.
4. The Respondent had emailed the tribunal on 18 March 2025 to advise that he had secured other accommodation, and he was moving out on 6 April 2025.

Case Management Discussion

5. The Applicants' agent advised that he was seeking an order for eviction. He had provided the tenancy agreement, AT5, copies of the notice to quit and section 33 notice together with evidence of service. In addition, there was a section 11 notice.
6. In terms of reasonableness he advised that this had been an investment property until retirement, the applicant had now retired and wished to sell the property and use the proceeds for his pension. There were no issues with the tenant in terms of conduct. It was purely to sell the property to fund his retirement. He understood that the respondent had found other accommodation, but as he had not quite moved out, in order to protect the interests of the applicant, he sought an eviction order. He thought he might not have to enforce it. He referred to the email of 18 March 2025 from the respondent. He also considered that the respondent had had 14 months to find other accommodation.

Findings in Fact

7. We found the following facts established:-
8. That there was in place a short assured tenancy.
9. That there was a tenancy agreement between the Applicants and the Respondents in respect of the Property.
10. The tenancy commenced on 22 January 2008 for an initial period of 12 months and month to month thereafter.
11. The AT5 Form was in the prescribed format and was dated 16 January 2008.
12. The notice to quit and section 33 notices contained the prescribed information, and both were dated 11 January 2024, both sought vacant possession as of 22 March 2024. Both provided more than 2 months' notice that vacant possession was sought. There was evidence of service of the notices. The notice to quit terminated the tenancy on an *ish* date.
13. There was a section 11 notice addressed to the local authority.
14. The respondents did not appear to oppose the order being granted.
15. The applicant wanted to sell the property to help pay for their retirement.
16. The tenant appears to have been a good tenant.

Reasons for Decision

17. Section 33 of the 1988 Act requires the tribunal to grant an order for possession under a short assured tenancy where: the tenancy has reached its *ish*; tacit

relocation is not operating; no further contractual tenancy for the time being is in existence; the landlord has given notice to the tenant that they require possession of the house; and where it is reasonable to do so.

18. We were satisfied that a short assured tenancy had been created. We were satisfied with the terms of the section 33 notice and the notice to quit. We were also satisfied that these notices had been served on the Respondent. We also noted that a section 11 notice has been sent to the local authority.

19. Having regard to the question of reasonableness, the Respondent did not appear but had emailed to say that he was moving into new accommodation on 6 April 2025. There appeared to be no issues with the conduct of the tenant he seemed to have been a good tenant. The applicant sought to sell the property in order to fund their retirement. While it was unlikely that they would need to enforce it, the agent was seeking the order to protect his client in the event that the respondent did not leave. The respondent had been given 14 months to find other accommodation. Given all of this information, we consider that it would be reasonable to grant an Order for eviction to allow the applicant to sell the property to support his retirement.

20. Accordingly, we would confirm that we are satisfied that all of the requirements of section 33 had been met and that it would be reasonable to grant an order for eviction under section 33 of the Housing (Scotland) Act 1988.

Decision

21. We grant an order in favour of the Applicant against the Respondent for recovery of possession of the property.

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.

Melanie Barbour

6th April 2025

Legal Member/Chair

Date