



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 and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules)

Chamber Ref: FTS/HPC/EV/24/4352

Re: Property at 23 Coalgate Road, Tranent, EH33 1JH (“the Property”)

Parties:

Cameron Veitch, Strawberry Wood, East Saltoun, EH34 5DY (“the Applicant”)

Sarah Louise Smith, 23 Coalgate Road, Tranent, EH33 1JH (“the Respondent”)

Tribunal Members:

Andrew Cowan (Legal Member) and Melanie Booth (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory requirements for eviction and recovery of possession have been established and that it is reasonable to grant the order sought.

Background

1. By application dated 17th September 2024, 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.
2. On 21st November 2024 the application was accepted by the tribunal and referred for determination by this Tribunal.

3. A Case Management Discussion was arranged to take place on 2nd May 2025 and appropriate intimation of that hearing was given to both parties.

The Case Management Discussion

4. The Case Management Discussion (CMD) took place on 2nd May 2025 by telephone conference call. The Applicant was represented by Mr David Gray of Gilson Gray solicitors. The Applicant did not join the conference call.
5. The Respondent also joined the conference call.

Discussions at CMD

6. At the start of the CMD the Respondent confirmed to the Tribunal that she did not wish to object to the Application. She confirmed that she understood the order sought and had copies of the application papers. The Respondent did not wish to argue that the grant of an order of eviction would be unreasonable. She did not wish to seek further advice in relation to the application. The Respondent indicated that she had applied to the local authority for rehousing. She has been in active discussions with the Local Authority in relation to her application but has been informed that her application will not be processed further unless the tribunal have granted an order which terminates her current tenancy agreement with the Applicant. The Respondent accordingly confirmed to the Tribunal that she did not wish to object to the Application. She requested that the Tribunal consider suspending enforcement of any order for eviction for period of eight weeks to allow her to secure an offer of alternative accommodation from the local authority and to allow her time to arrange to move from the Property.
7. The Applicant's representative confirmed that the Applicant continues to seek an order for eviction. The Applicant owns a number of properties which are currently the subject of private sector leases, The Applicant no longer considers it is economically affordable to maintain that portfolio of properties and is now seeking to sell those properties, including the Property which is the subject of this application. The Applicant's representative noted the Respondent's request for a period of suspension of any order granted by the

tribunal and confirmed that, were the Tribunal to grant an order, the Applicant would be willing to accept the suspension of such an order until 1st August 2025.

Findings in Fact

8. The Applicant and the Respondent, as respectively the landlord and the tenant, entered into a tenancy of the property by an agreement dated 17th January 2015.
9. The tenancy is a short assured tenancy in terms of the Act.
10. The Applicant sold the Property to Benchmark LLP on 26th June 2019.
11. Benchmark4 LLP have authorised the Applicant to continue to act as the Landlord of the Property in relation to the lease of the Property to the Respondent. The Applicant accordingly remains the Landlord of the Property.
12. On 17th June 2024, the Applicant served upon the tenant 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 26th August 2024.
13. The notices informed the tenant that the landlord wished to seek recovery of possession using the provisions of section 33 of the Act.
14. The notices were correctly drafted and gave appropriate periods of notice as required by law.
15. The basis for the order for possession was accordingly established.
16. A section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served by email upon the City of Edinburgh Council by the Applicant's representative on 17th September 2024.

Decision and reasons

17. An eviction order on this basis can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order
18. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties

19. In this case the tribunal finds that it is reasonable to grant the order.
20. The Respondent has confirmed that she does not wish to oppose the application and that she is seeking alternative housing.
21. The Tribunal have determined that, having considered all of the relevant circumstances, the balance of reasonableness in this case weighs towards the Applicant.
22. The Tribunal's order for eviction shall not be enforceable before 1st August 2025.
23. 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

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.

A.Cowan

Legal Member/Chair

2nd May 2025

Date