



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/24/5795

Re: Property at 31 Hepburn Drive, Dalkeith, Midlothian, EH22 2JU (“the Property”)

Parties:

Geoff Wilkinson, 11/4 Darnell Road, Edinburgh, EH5 3PQ (“the Applicant”)

Graham Anderson, 31 Hepburn Drive, Dalkeith, Midlothian, EH22 2JU (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Eileen Shand (Ordinary Member)

Decision

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

Introduction

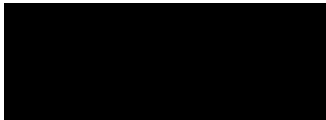
1. This eviction application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. Intimation of the application and of the Case Management Discussion (‘CMD’) was effected upon the respondent by Sheriff officers on 8 April 2025.
2. The CMD took place by teleconference on 3 July 2025 at 2.00 pm. The applicant was represented by Mr Gregory Smart of Gilson Gray LLP. The respondent joined with his wife.

Findings and Reasons

3. The property is 31 Hepburn Drive, Dalkeith, Midlothian EH22 2JU. The applicant is Mr Geoff Wilkinson who is the heritable proprietor of a 75% share of the heritable property and registered landlord of the property. His brother, David Wilkinson, is the owner of the other 25% and he has provided his consent to the applicant seeking the eviction order. The respondent is Mr Graham Anderson who is the tenant.
4. The parties entered into a short assured tenancy which commenced on 29 January 2005. The initial term of the tenancy was between 29 January 2005 and 28 July 2005. In accordance with the terms of the agreement the lease has continued on a month to month basis since. An AT5 Notice under section 32 of the 1988 Act was served on the respondent prior to the creation of the tenancy. Monthly rent was agreed at £450 per month.
5. On 30 May 2024 the applicant served upon the respondent notice under Section 33(1)(d) of the Housing (Scotland) Act 1988 stating that possession was required of the property as at 31 August 2024. On 17 September 2024 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 28 November 2024.
6. 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.
7. The tribunal proceeded to consider the reasonableness of the eviction order being granted.
8. The respondent does not oppose the application. He is 55 years of age. He lives with his wife. The respondent has physical disability arising from a stroke and the property no longer meets his requirements. The bedroom and bathroom are upstairs. The respondent requires a ground floor property. The respondent is in rent arrears which are currently £1,330.
9. The applicant seeks to evict the respondent on the grounds that he intends to sell the let property. This is to enable him to repay a mortgage over his principal home which ends in November 2025. Both he and his brother are in their sixties.
10. A section 11 notice under the Homelessness etc (Scotland) Act 2003 has been issued to Midlothian Council. In the event of an eviction order being made the local authority is under a statutory duty to make suitable alternative accommodation available.
11. The tribunal concluded that it was reasonable to grant the eviction order. The tribunal determined that it was fair to extend the period for any implementation of the eviction order until 31 August 2025 to reflect the respondent's circumstances.

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.



Legal Member/Chair

3 July 2025

Date