



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/25/2092

Re: Property at 83 The Avenue, Whitburn, West Lothian, EH47 0BS (“the Property”)

Parties:

Mr Robert Gilles, 7/42 Murieston road, Edinburgh, EH11 2JJ (“the Applicant”)

Ms Laura Mitchell, 83 The Avenue, Whitburn, West Lothian, EH47 0BS (“the Respondent”)

Tribunal Members:

Andrew Cowan (Legal Member) and Angus Lamont (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 14th May 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.
2. On 16h May 2025 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 18th August 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 18th August 2025 by telephone conference call. Both parties joined the conference call.

Discussions at CMD

5. At the start of the CMD the Respondent confirmed to the Tribunal that she did not wish to object to the Application. 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.
6. The Applicant confirmed that he continues to seek an order for eviction. The Applicant has significant health issues and is no longer fit to work, He wishes to sell the Property and to retire.

Findings in Fact

7. The Applicant and the Respondent, as respectively the landlord and the tenant, entered into a tenancy of the property by an agreement dated 13th October 2014.
8. The tenancy is a short assured tenancy in terms of the Act.
9. The Applicant has served upon the tenant a notice to quit and a notice in terms of section 33 (1) (d) of the Act, both notices being dated 6th March

2025. These notices were served on the respondent by Recorded Delivery mail. Said notices became effective on 13th May 2025.

10. The notices informed the tenant that the landlord wished to seek recovery of possession using the provisions of section 33 of the Act.

11. The notices were correctly drafted and gave appropriate periods of notice as required by law.

12. The basis for the order for possession was accordingly established.

13. A section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served by email upon West Lothian Council by the Applicant, on 14th May 2025.

Decision and reasons

14. An eviction order on this basis can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order

15. 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.

16. In this case the tribunal finds that it is reasonable to grant the order.

17. The Respondent has confirmed that she does not wish to oppose the application and that she is seeking alternative housing.

18. The Tribunal have determined that, having considered all of the relevant circumstances, the balance of reasonableness in this case weighs towards the Applicant.

19. The Tribunal's order for eviction shall not be enforceable before 19th September 2025.

20. 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.

Andrew Cowan

18th August 2025

Legal Member/Chair

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Date