



**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/25/2637

Re: Property at 23 Fernieside Avenue, Edinburgh, EH17 7DN (“the Property”)

Parties:

Mr John Davis, 22 James Young Road, Bathgate, EH48 2UP (“the Applicant”)

Ms Tracey Martin, 23 Fernieside Avenue, Edinburgh, EH17 7DN (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Mary Lyden (Ordinary Member)

Decision

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

1. On 8th June 2025 the Applicant lodged an Application with the Tribunal under Rule 66 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondents from the property.

2. Lodged with the application were: -
 - a. Short Assured Tenancy Agreement dated 22nd August 2016 and initially running from 22nd August 2016 for six months and two monthly thereafter, and with monthly rent of £795;
 - b. AT5 Notice dated 22nd August 2016;
 - c. Notice to Quit dated 7th January 2025 for 22nd April 2025;
 - d. Section 33 Notice dated 7th January 2025 for 22nd April 2025;
 - e. Proof of service of c and d;
 - f. Section 11 Notice and proof of service.

3. The Application was served on the Respondent by Sheriff Officers on 30th October 2025.
4. On 12th November 2025 the Respondent's representative sent a Written Submission to the Tribunal confirming that the respondent does not oppose the application for eviction but is seeking a short delay in enforcement.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Mr Gray of Gilson Gray, Solicitors. The Respondent was represented by Mr Donegan of CHAI.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and also that it was reasonable for the Tribunal to grant the order.
7. Mr Gray sought an order for eviction in terms of sections 19 and 33 of the Housing (Scotland) Act 1988. He said that the Applicant wish to sell the property, and their other rental property, in order to fund their son at university and also their retirement. He confirmed that there are no rent arrears.
8. Mr Donegan confirmed that the Respondent did not oppose the eviction, and reiterated what was said in the Written Submission. He said that the Respondent has been in touch with the local authority and has engaged in a housing assessment. She cannot start bidding on properties until the eviction order is granted.
9. Mr Donegan asked for the order to be suspended for two weeks because of the family dynamic which needs to be addressed and to allow the Respondent to clean and make sure the property is fit to be handed over.

Findings in Fact

- i. The parties entered into a Short Assured Tenancy Agreement in respect of the property;
- ii. The tenancy commenced on 22nd August 2016 with the initial term being six months, and two monthly thereafter;
- iii. Notice To Quit and Section 33 Notice were served timeously and correctly;
- iv. The Short Assured Tenancy has reached its ish;
- v. Tacit relocation is not operating;
- vi. The Application was served on the Respondent by Sheriff Officer on 30th October 2025;

- vii. The Applicant wishes to sell this property and his other rental property to fund retirement and for his son's university education;
- viii. The Respondent lives in the property with her two sons, aged 16 and 21, and her older son and her grandson stay at weekends;
- ix. The Respondent has engaged with the local authority but cannot bid for houses until the eviction order has been granted.
- x. There are no rent arrears.

Reasons For Decision

10. Section 33 of the Housing (Scotland) Act 1988 is as follows:

- (1) *Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal may make an order for possession of the house if the Tribunal is satisfied—*
 - (a) *that the short assured tenancy has reached its finish;*
 - (b) *that tacit relocation is not operating;*
 - (c)
 - (d) *that the landlord (or, where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house and*
 - (e) *that it is reasonable to make an order for possession.*
- (2) *The period of notice to be given under subsection (1)(d) above shall be—*
 - (i) *if the terms of the tenancy provide, in relation to such notice, for a period of more than two months, that period;*
 - (ii) *in any other case, two months.*
- (3) *A notice under paragraph (d) of subsection (1) above may be served before, at or after the termination of the tenancy to which it relates.*
- (4) *Where the First-tier Tribunal makes an order for possession of a house by virtue of subsection (1) above, any statutory assured tenancy which has arisen as at that finish shall end (without further notice) on the day on which the order takes effect.*

(5) For the avoidance of doubt, sections 18 and 19 do not apply for the purpose of a landlord seeking to recover possession of the house under this section.

9. The Tribunal is satisfied that the Short Assured Tenancy has been brought to an end and that tacit relocation is not operating. The Tribunal is also satisfied that it is reasonable to grant the order. It is reasonable for the Applicant to want to realise his assets to fund retirement and his son's education. The Respondent is not opposed to it being granted.
10. The Tribunal has decided that given the time of year, and the fact that there are no rent arrears to suspend extract of the Order until 13th February 2026.

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.

Alison Kelly

19th December 2025

Legal Member/Chair

Date