



**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/22/0221**

**Re: Property at 10/2 Broomhouse Street North, Edinburgh, EH11 3RR (“the  
Property”)**

**Parties:**

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

**Louise Anne Houghton, 10/2 Broomhouse Street North, Edinburgh, EH11 3RR  
 (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the Applicant was entitled to an order for the  
possession of the property and the removal of the Respondent from the  
property.**

**Background**

1. By application dated 25 January 2022 the Applicant’s representatives Gilson Gray, Solicitors, Edinburgh applied to the Tribunal for an order for possession of the property in terms of Section 33 of the Housing (Scotland) Act 1988. They submitted a copy of Form AT5, the Tenancy Agreement, Notice to Quit, Section 33 notice, Sheriff Officer’s Execution of Service and section 11 Notice in support of the application.
2. By Notice of Acceptance dated 9 February 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 3 March 2022.
4. A CMD was held on 19 April 2022 and was attended by Ms Tania Royle on behalf of the Applicant. The Respondent attended in person. It was agreed that the parties entered into a Short Assured tenancy that commenced on 11 October 2017 and endured until 11 April 2018 and from month to month thereafter. It was further agreed that the Notice to Quit and section 33 notice had been properly served on the Respondent by Sheriff Officers on 14 July 2021 and that a Section 11 Notice had been intimated to the local authority at the commencement of these proceedings.
5. After hearing from the Applicant's representative and the Respondent and as it appeared there was a reasonable prospect that the Respondent had obtained new accommodation and would have moved by 1 May 2022 the Tribunal adjourned the CMD to a further CMD to take place on 19 May 2022.

### **The Case Management Discussion**

6. A CMD was held by teleconference on 19 May 2022. The Applicant was again represented by Ms Royle and the Respondent attended in person.
7. The Respondent explained that she had not vacated the property as she had intended as she had been admitted to intensive care in hospital following the removal of part of her bowel. She said she had been discharged from hospital the previous week and the new tenancy had not been held for her. The Respondent confirmed that she had not advised the Applicant or his representatives of her illness.
8. The Respondent went on to say that she had not applied for homeless accommodation as she had two dogs with health issues and they would not be accommodated. She said if the order was granted, she and her two adult children would have to stay with her elderly parents in a two-bedroom property that was not suitable for them.
9. For the Applicant Ms Royle confirmed that it was her client's intention to sell the property once he obtained possession and carried out some repairs. She went on to say that no rent was being paid and the arrears now stood at about £10000.00. She said this had financial implications for the Applicant.
10. Ms Royle went on to say that although she had sympathy for the Respondent's situation, she submitted that the local authority would be likely to offer the Respondent suitable accommodation once an order for possession was granted given her current medical condition. She did not think a further continuation would be reasonable. Ms Royle went on to say that the Respondent's children were adults and they would also be entitled to be housed in their own right and therefore would not need to share a room at the Respondent's parents' home. Furthermore, if the order was granted it would be another six weeks before an eviction could take place.

11. The Respondent submitted that she did not want to remain in the property. It did not have any heating. She had tried everything in her power to obtain a new property. She thought the order for possession would be granted and she was fine with that. The Respondent went on to say that although her children were adults, they would always be her children and she wanted them to live with her. She said that she was dependent upon them at the moment to bathe and shower her. She explained that she could not move house at present as she was bedridden with nurses coming in twice a day. She said her recovery was due to take eight weeks but that she may require further treatment.

### **Findings in Fact**

12. The parties entered into a Short Assured Tenancy that commenced on 11 October 2017 and endured until 11 April 2018 and continued from month to month thereafter.

13. A Notice to Quit and Section 33 Notice was served on the Respondent by Sheriff Officers on 14 July 2021.

14. A Section 11 notice was intimated to the local authority by email on 25 January 2022.

15. The Applicant wishes to sell the property.

16. The Respondent has not paid rent since May 2021.

17. The Respondent has accrued arrears of rent amounting to about £10000.00.

18. The Respondent no longer wishes to live in the property and has packed most of her belongings in preparation for a move.

19. A previously identified new property that the Respondent had hoped to move into is no longer available.

20. The Respondent has recently been in hospital and undergone surgery. She has not yet fully recovered. She has been told it will take about eight weeks from her discharge from hospital to recover.

21. The Respondent has two adult children living with her. They are currently assisting with her care.

22. The Respondent also has two dogs both of which have health issues.

## **Reasons for Decision**

23. It was agreed that the Notice to Quit and Section 33 Notice had been properly served on the Respondent and that they were valid. It was also agreed that intimation of the proceedings had been given to the local authority by way of a Section 11 Notice. Therefore, were it not for the provisions of the Coronavirus (Scotland) Act 2020 ("the 2020 Act") the Tribunal would have been obliged to grant an order for possession. However, in terms of the 2020 Act the Tribunal must also consider whether in all the circumstances it is reasonable to grant the order.
24. In reaching its decision the Tribunal weighed up the circumstances of both parties. The Applicant has decided that he no longer wishes to rent out the property partly because he acknowledges it is requiring repairs and also because he has come under financial pressure as a result of the Respondent failing to pay any rent for a year and accruing a debt of about £10000.00. The Respondent has said that she no longer wishes to live in the property and has tried to find somewhere else to live and indeed would have moved had it not been for her recent admission to hospital.
25. The Tribunal has sympathy for the Respondent given her current poor health but considers that on balance the interests of justice favour the granting of the order. There appears to be no prospect of the Respondent clearing her rent arrears any time soon. Her children are adult and not dependent upon her. She could live with her parents if necessary. She has said she does not want to live in the property and given her poor health the Tribunal would hope that the local authority would give the Respondent some priority for re-housing.
26. As the Respondent has said that it was expected that her recovery would take about eight weeks the Tribunal determined that some additional time should be given before any order for possession could come into force. The Tribunal therefore determined to grant an order for possession but delayed its implementation until 30 June 2022.

## **Decision**

27. The Tribunal finds the Applicant entitled to an order for the possession of the property and the removal of the Respondent from the property in terms of Section 33 of the housing (Scotland) Act 1988.

## **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.**

**Graham Harding  
Legal Member/Chair**

**19 May 2022  
Date**