



**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/25/3246**

**Re: Property at 28a Commerce Street, Elgin, Moray, IV30 1BS (“the Property”)**

**Parties:**

**Mr Daniel Monteiro De Oliveira, Shempston House, Elgin, IV30 5RJ (“the Applicant”)**

**Mr Edwin Henderson, 28a Commerce Street, Elgin, Moray, IV30 1BS (“the Respondent”)**

**Tribunal Members:**

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

**Decision (in absence of the Respondent)**

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

Introduction

1. This application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order. Intimation of the application and of the Case Management Discussion (‘CMD’) was effected upon the respondent by Sheriff officers on 22 January 2026.
2. The CMD took place by teleconference on 10 March 2026 at 10.00 am. The applicant was represented by Calum MacPherson of Brodies LLP. The respondent failed to participate in the hearing.

Findings and Reasons

3. The property is 28a Commerce Street, Elgin IV30 1BS.

4. The applicant is Daniel Monteiro De Oliveira. He is the registered landlord. The applicant is vest in the interest of landlord under the short assured tenancy agreement dated 12 July 2017 between Mr Robin Falconer (now deceased) and the respondent. A copy of the Disposition in favour of the applicant dated 14 August 2024 has been produced. This is a Disposition by the Trustees of the Robin Falconer Testamentary Trust in favour of the applicant. The respondent is the tenant Mr Edwin Henderson.
5. On 7 March 2025 the applicant served upon the respondent a Notice to Quit and a Notice under Section 33(1)(d) of the Housing (Scotland) Act 1988 which gave notice to the respondent that he would require to remove from the property on or before 11 April 2025. The short assured tenancy between the parties has reached its ish. 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.
6. The tribunal considered the reasonableness of the eviction order being granted.
7. The applicant seeks to evict the respondent due to the failure of the respondent to pay rent. Rent arrears now stand at £11,900. It is not reasonable to require the applicant to continue to make the property available to the respondent.
8. The respondent has not opposed the eviction application. Little is known about the respondent as he has failed to cooperate with the applicant and his representatives. A section 11 Notice under the Homelessness etc (Scotland) Act 2003 has been issued. In the event of an eviction order being made the local authority is under a statutory duty to make suitable alternative accommodation available.
9. The tribunal concluded that it was reasonable to grant the eviction order.

## 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.**

**Richard Mill**

**10 March 2026**

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Legal Member/Chair

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Date