

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

Chamber Ref: FTS/HPC/EV/26/1557

Re: Property at 39 Laurelbank, Coatbridge, ML5 2DE (“the Property”)

Parties:

Mr Graeme Paton, Mrs Lesley Paton, 58 Blair Road, Coatbridge, ML5 1NJ (“the Applicant”)

Ms Samantha McAuley, Steven Lochrane, 39 Laurelbank, Coatbridge, ML5 2DE (“the Respondent”)

Tribunal Members:

Hilary Macandrew (Legal Member) and Sandra Brydon (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Eviction Order be granted.

1) Background

- 1.1 By Application dated 9th April 2026 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
- 1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 5 May 2026.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 17 July 2026.
- 1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Tenancy agreement and AT5
- Notice to Quit and Section 33 Notice
- Section 11 Notice to Local Authority

1.5 A Case Management Discussion was set to take place on 19 August 2026. Appropriate intimation was given to both Applicant and Respondent.

2) The Case Management Discussion

- 2.1 The CMD took place by tele conference on 19 August 2026. The Applicant took part as did the Respondent.
- 2.2 The Applicant sought the Eviction Order. The Respondent confirmed that in principal they did not oppose the Order being granted.
- 2.3 The Applicant explained that they wished to sell their portfolio of rental properties to fund their retirement and to take away the responsibility of running the properties given their retirement. They had attempted to sell the property back to the local authority with the Respondent in situ but this was declined by the local authority. They had also investigated selling the property to another private landlord but the private land lord did not respond. They have other properties which they are selling off over a 5 year period. They had approached an estate agent but the property would require some renovation before marketing.
- 2.4 The Respondent Ms McAuley talked of her personal circumstances. The property has been the home for herself and her daughter since her daughter was 3 years old. Her daughter is now a teenager. The whole uncertainty of moving is causing anxiety to the family. She has spoken to the local authority about housing but they will not offer another tenancy until an Eviction Order is issued.
- 2.5 Rule 17 of the First-Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 provides that the Tribunal may do anything at a CMB which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a hearing.

3) Findings in Fact and Law

- 3.1 The Applicant and the Respondent entered into a Private Residential Tenancy Agreement in respect of the property which commenced on 6 January 2013.
- 3.2 The Tenancy was a Short Assured Tenancy in terms of the Act..
- 3.3 On 28 January 2026 the Applicant served upon the Respondent a Notice to Quit and a Notice in terms of Section 33 of The Act. These Notices were served by Sheriff Officers. They became effective on 6th April 2026. The Notices

informed the Respondent that the Applicant wished to seek recovery of possession using the provisions of Section 33 of The Act. The Notices were correctly drafted and provided sufficient notice.

3.4 The basis for the Order for possession was accordingly established.

4) Issue For The Tribunal

4.1 The issue for the Tribunal is to determine whether or not it is reasonable to grant the Order.

4.2 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah 1943 SC 245* whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.

4.3 The Tribunal found that the Applicant is entitled to recovery of the property. The Tribunal had regard to the change of the Applicant's personal circumstances in that the Applicant is retired and wishing to realise the equity in a portfolio of properties to fund retirement and to remove the responsibilities of being a Landlord. The Applicant has approached an Estate Agent but will require refurbishment works to be undertaken before the property can be marketed for sale.

4.4 The Respondent has stated that they do not oppose the grant of the Order in principal. They have already approached the local authority. They need the Eviction Order before the Local Authority will accept their application for housing. The Tribunal gave weight to the fact that the Respondent was not opposing the grant of the Order.

4.5 Accordingly, the Tribunal was satisfied that it is reasonable to grant an order for eviction.

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.

H Macandrew

19 August 2026

Legal Member/Chair

Date