

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/25/3134

Re: Property at 16 Naughton Road, Wormit, Fife, DD6 8PE (“the Property”)

Parties:

Mr Euan McKay, The Smiddy, Main Street, Gauldry, Newport-on-Tay, Fife, DD6 8RP (“the Applicant”)

Ms Trudy Cunningham, 16 Naughton Road, Wormit, Fife, DD6 8PE (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By lease dated 29 February 2016 the Property was let to the Respondent.
2. Prior to the lease being signed a notice in terms of s32 of the Housing (Scotland) Act 1988 – commonly referred to as a Form AT5 – was served upon the Respondent. The tenancy is, accordingly a short assured tenancy.
3. The Property is owned jointly by Mr Euan McKay and Mrs Ann McKay, the Property having been purchased in March 1998.
4. The lease of the Property detailed Mrs A McKay as being the landlord.

5. On 18 July 2019 Mrs Ann McKay granted a Power of Attorney in favour of the Applicant, Mr Euan McKay. This was registered with the Office of the Public Guardian on 7th September 2019. Mr Euan McKay is, therefore, legally entitled to deal with matters relating to the lease on behalf of Mrs Ann McKay.
6. A notice to quit dated 10 April 2025 was served upon the Respondent.
7. A notice in terms of s33 of the Housing (Scotland) Act 1988 dated 10 April 2025 was served upon the Respondent.
8. On 20 July 2025 an application was presented to the Tribunal seeking an order for eviction.
9. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
10. In advance of the Case Management Discussion the Respondent forwarded submissions to the Tribunal. The submissions, in brief, indicated that she did not oppose an eviction order being granted but would wish to remain within the Property until 31 March 2026 to enable her to secure alternative accommodation.

THE CASE MANAGEMENT DISCUSSION

11. The Applicant was represented by Mrs K McKay. The Respondent participated personally.
12. Mrs McKay moved the Tribunal to grant an order for eviction. She explained that the Property is owned by her parents in law. Her father-in-law, Euan McKay, is now 83 years of age. Her mother-in-law, Anne McKay, is 76 years of age at present but is in a care home suffering from dementia. It is desired to dispose of the Property which is now a liability for them. It was explained to the Tribunal that there is an outstanding mortgage on the Property which, clearly, requires to be paid and, given the personal situation of the Proprietors, they no longer wish to continue with the tenancy and ownership of the Property.
13. The Respondent, while not accepting all the information which had been provided to the Tribunal by the Applicant, confirmed that she did not oppose an order for eviction being granted. Indeed, she advised that she is keen to vacate the premises. She advised that she has submitted an offer to purchase another home. The offer has been accepted. It is anticipated that she will be able to gain entry to her newly purchased home in approximately 7 or 8 weeks

from the date of the Case Management Discussion. She invited the Tribunal to defer the enforcement of any eviction order for that period of time.

14. The Tribunal enquired of Mrs McKay as to whether there would be any objection to an eviction order being granted with the date of enforcement being on 30 March 2026. After considering the matter, she advised she would have no opposition to that. The Respondent confirmed that she would expect the conveyancing for her purchase to be completed by then and an eviction order with a date of enforcement deferred until 30 March 2026 is something she would consent to.

15. In the circumstances, having regard to the fact that all necessary legal requirements to enable the application to proceed had been complied with and, thereafter, the agreement of the parties that an eviction order should be granted with the date of enforcement being no earlier than 30 March 2026, the Tribunal granted an order in those terms.

DECISION

The Tribunal granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

Order not to be executed prior to 12 noon on 30th March 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.

Virgil Crawford

6th February 2026

Legal Member/Chair

Date