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) under Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended ("the Regulations")

Chamber Ref: FTS/HPC/EV/26/0273

Re: Property at 32 Cameron Way, Knightsridge, Livingston, EH54 8HD ("the Property")

Parties:

Mr Kevin Smith, Mrs Rachelle Smith, 9 East Cairn View, Muireston, Livingston, EH54 9FS ("the Applicant")

Miss Marie Gregg, 32 Cameron Way, Knightsridge, Livingston, EH54 8HD ("the Respondent")

Tribunal Members:

Nicola Weir (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application for the order for possession should be granted.

Background

1. The application received on 19 January 2026 sought an eviction order under Rule 66 on the basis that the Short Assured Tenancy had been brought to an end by service of the relevant notices. Supporting documentation was submitted, including a copy of the tenancy agreement, AT5, Notice to Quit, Section 33 Notice and section 11 Notice to the local authority. The Short Assured Tenancy began on 1 June 2017.

2. Following initial procedures, the application was accepted by the Tribunal on 6 March 2026 and notified to the Respondent by Sheriff Officer on 23 July 2026, together with details of the scheduled Case Management Discussion ("CMD").

3. On 31 July 2026, the Respondent lodged written representations, explaining her position. She indicated that she had always paid her rent of £800 per month on time and does not like the suggestion made by the Applicant that she was to blame for them falling behind with their mortgage payments. She has applied to the local authority for housing and they are aware of her housing needs, for a property on one level, due to the fact that she is disabled and walks with sticks. The local authority did not tell her to ignore the Notice to Quit, as stated by the Applicant. The Respondent indicated that someone had been to inspect the Property from the Council and noted that there are things wrong with it, due to the lack of improvements carried out during her tenancy. The Respondent submitted some supporting documents, including extracts from her bank accounts showing payments of rent.

4. On 7 August 2026, the Applicant submitted further written representations in response. They further explained their current financial difficulties and need to sell the Property, including mortgage arrears and submitted some further supporting documentation in this regard. They also explained that the second-named Applicant, Mrs Smith, was in ill health and has a condition which is worsened by stress. She has had to reduce her work hours as a consequence. The Applicant clarified the rent arrears situation, stating that there are arrears of £1,100, that payments have been sporadic and only half payments made for the past three months.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place by telephone conference call on 24 August 2026 at 10am. In attendance were both Applicants, Mr and Mrs Smith and the Respondent, Ms Gregg.

6. Following introductions and introductory comments by the Legal Member, she explained the purpose of the CMD. Ms Gregg was asked to clarify her position regarding the eviction, which the Legal Member explained was on the ground that the Short Assured Tenancy had been brought to an end by the service of the appropriate formal notices.

7. Ms Gregg confirmed that she was not contesting the application. She had read the papers wrongly initially and thought she was being blamed by her landlords for their mortgage arrears. She now understands the position and that this is a no-fault ground for eviction. Ms Gregg explained that she approached the local authority some time ago but they have told her that she would not be re-housed until an eviction order is granted by the Tribunal. They are aware of her mobility needs and that she requires a house on the one level. She is 56 years old and not working as she is registered disabled. She has an adult son and daughter who both stay with her some of the time, but stay elsewhere the rest of the time. It was noted that the Property is a three-bedroomed terraced house which is

not on the one level and Ms Gregg confirmed that it will be better for her to be re-housed in a more suitable property.

8. Mr Smith explained their position on behalf of he and Mrs Smith. They have had financial difficulties over the past few years with some debts arising and additional costs arising from a serious car accident in which their son was involved but in which the insurance company did not pay out. They have been finding it hard to manage and fell behind on their mortgage payments. They owe about £100,000 and the mortgage company issued a Calling-up Notice previously. They managed to borrow some money from a family member to stop the mortgage lender repossessing but also require to sell this Property as soon as possible, in order to pay off their mortgage and stop a repossession taking place. They have an estate agent lined up to proceed as soon as they are able. Mr Smith also mentioned his wife's health conditions and the effect of stress on that. They own the property that they live in but expect to have to move home themselves at some point due to their financial position and the effects of his wife's health conditions. Mr Smith confirmed that he owns a few other rental properties which will also require to be sold, but this Property is the most urgent. He explained that, in an ideal world, they would have been able to keep Ms Gregg on as a tenant, as she had been a good tenant for a lengthy period of time. He was sad that circumstances had led them to this situation. Mr Smith mentioned that he had approached the local authority previously and explained their position. They had hoped that the Council would be able to prioritise Ms Gregg's housing application. They involved their MP, but to no avail. Mr Smith had originally hoped that he may be able to move some of his tenants around and secure a ground floor property of theirs for Ms Gregg to move into. However, this did not turn out to be possible.

9. Ms Gregg was asked if she was aware of the timeframe for the Council finding her a suitable property but she was not. She did not, however, think that any extension on the eviction order would make much difference. She mentioned that she has high 'points' in respect of her application, due to her condition and appeared reasonably confident that the Council would find her something suitable once the eviction order was granted and that this was likely to be within the 30-day appeal period.

10. The Tribunal Members considered the application and thereafter confirmed that the eviction order sought would be granted, with no extension to the usual timescale for eviction. The Legal Member indicated that the decision paperwork would be issued in writing within the next few days. Ms Gregg was happy for the Tribunal to correspond with her by way of email to speed the process up and in order that a copy of the documentation could be provided to the Council as soon as possible. The Legal Member confirmed that the earliest eviction date to be stated in the eviction order would be the expiry of the 30-day appeal period.

11. Mr and Mrs Smith, and Ms Gregg were thanked for their attendance and the CMD was concluded.

Findings in Fact

1. The Applicant is the joint owner and landlord of the Property.

2. The Respondent is the joint tenants of the Property by virtue of a Short Assured Tenancy which commenced on 1 June 2017.

3. The Applicant ended the contractual tenancy by serving on the Respondent a Notice to Quit and Section 33 Notice, both dated and posted on 30 August 2025.

4. The end of the contractual tenancy and notice period in terms of the notices was specified as 1 November 2025, which was an ish date in terms of the tenancy.

5. Both notices were in the correct form, provided sufficient notice and were served validly on the Respondent.

6. The Respondent has remained in possession of the Property following expiry of the notice period, as she has not yet secured alternative accommodation.

7. The Applicant intends to sell the Property as soon as possible due primarily to financial difficulties.

8. The Applicant has debt, including mortgage arrears, in respect of which the mortgage lender has taken formal action.

9. The Respondent did not oppose the application or seek any extension on the usual timeframe for eviction.

10. The Respondent is registered disabled, has mobility difficulties and wishes to move into housing more suitable to her needs.

11. The Respondent has already applied for social housing through the local authority, who are aware of her circumstances but indicated that her application will not progress until an eviction order is granted.

Reasons for Decision

1. The Tribunal considered the Tribunal application and supporting documentation submitted by the Applicant, the written representations from the Respondent , the further written representations submitted by the Applicant in response and to the oral submissions made by both parties at the CMD.

2. The Tribunal was satisfied that pre-action requirements including the service of the Notice to Quit and Section 33 Notice in terms of the 1988 Act had been properly and timeously carried out by the Applicant in connection with this Tribunal application.

3. Section 33(1) of the Act states that an order for possession shall be granted by the Tribunal if satisfied that the short assured tenancy has reached its finish; that tacit relocation is not operating; that the landlord has given to the tenant notice stating that he requires possession of the house; and that it is reasonable to make an order for possession. The Tribunal was satisfied that all requirements of Section 33(1) had been met.

4. As to reasonableness, the Tribunal considered the reasons stated for the Applicant's wish to recover the Property and sell it, primarily due to their financial difficulties. The Tribunal noted the extent and details of their debt, which included mortgage arrears in respect of this Property. The Tribunal also noted that formal action towards repossession had been taken previously by the mortgage lender and that there is some urgency in the Applicants selling the Property to avoid a repossession and consequent impact on the likely sale price to be achieved. The Tribunal also noted the second-named Applicant's health conditions and their wish to avoid further exacerbation of her conditions by stress. Although there was mention of some rent arrears having accrued, there was no suggestion by the Applicant that this was a reason for the eviction. The Tribunal noted that the parties appeared to have been on very good terms for a number of years and that the Applicant had initially tried to resolve matters by other means and regretted that this had not been possible and that the Tribunal proceedings had been required. The Tribunal also took into account the health and other circumstances of the Respondent, that she wished to secure social housing more suitable to her mobility needs and had already made application to the local authority in that regard. The Tribunal noted that the Respondent did not wish to oppose the eviction application, nor delay the eviction any longer, given the circumstances of both parties.

5. The Tribunal accordingly determined that it was reasonable, in these circumstances, for an order for recovery of possession of the Property to be granted at the CMD. There was nothing in dispute and therefore no requirement to adjourn to an Evidential Hearing or to extend the usual timeframe for the eviction order being enforceable. The earliest date for eviction will accordingly be stated in the Order as **24 September 2026**.

6. The Tribunal's decision was unanimous.

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.

Legal Member/Chair — Nicola Weir

Date — **24 August 2026**