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 16 of the Housing (Scotland) Act 2014 and Section 33 of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/EV/26/1108

Re: Property at 54/6 St Mary Street, Edinburgh, EH1 1SX ("the Property")

Parties:

Ms Ann Sutherland, Flat 12 Wedderburn House Wedderburn, Court Inveresk Musselburgh, East Lothian, EH21 7TU ("the Applicant")

Mr Michael Laing, 54/6 St Mary Street, Edinburgh, EH1 1SX ("the Respondent")

Tribunal Members:

Shirley Evans (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order against the Respondent for possession of the Property at 54/6 St Mary Street, Edinburgh, EH1 1SX under Section 33 of the Housing (Scotland) Act 1988 be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicant or others in her name may enter thereon and peaceably possess and enjoy the same.

Background

1. This is an action for recovery of possession of the Property raised in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Regulations").

2. The application was accompanied by a copy of a tenancy agreement and AT5 dated 13 January 2003, a Notice to Quit and Section 33 Notice dated 18 November 2025, a Sheriff Officer's Execution of Service dated 25 November 2025 and a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 to the City of Edinburgh Council dated 6 March 2026.

3. On19 May 2026, the Tribunal accepted the application under Rule 9 of the Regulations.

4. On 8 August 2026, the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 5 October 2025. The Respondent required to lodge written submissions by 29 August 2026. This paperwork was served on the Respondent by Alexander Horne, Sheriff Officer, Edinburgh on 11 August 2026 and the Execution of Service was received by the Tribunal administration.

5. The Respondent lodged written representations on 20 August 2026 together with a number of photographs.

Case Management Discussion

6. The Tribunal proceeded with the CMD on 5 October 2026 by way of teleconference. The Applicant was represented by Mr Wood from Kilgour Property Management Ltd, Mr Laing the Respondent appeared and represented himself.

7. The Tribunal had before it the tenancy agreement and AT5 dated 13 January 2003, the Notice to Quit and Section 33 Notice dated 18 November 2025, the Sheriff Officer's Execution of Service dated 25November 2025, and the Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 to the City of Edinburgh Council dated 6 March 2026. The Tribunal considered the terms of these documents.

8. The Tribunal explained it had had an opportunity of considering the Application papers and Mr Laing's submissions and invited Mr Wood to make his submissions.

9. Mr Wood advised that the Applicant was retired and was about 80 years of age. She was looking to tidy up her affairs and wished to sell the Property. She had one other Property which her son was moving into. He was seeking an order to evict in the circumstances.

10. The Tribunal asked Mr Laing to confirm what his position was. He advised that he was not opposing the Application. However, he had been advised by Fife Council to remain in the Property until such time as the Tribunal ordered him to leave. He stated he wanted to move form the Property as it was not

being maintained. He was currently on Universal Credit, was 63 years of age and due to his serious health condition would not work again. He had been a train driver. He lived in the Property alone. He was keen to move to Dunfermline to be nearer his family so he would feel less isolated. However he had had no success on securing a private let in the Dunfermline area. Fife Council had advised him they would provide him with temporary housing and had asked him to call them the following day to advise of the outcome of the Tribunal.

11. On being questioned by the Tribunal as to whether he had made applications to Housing Associations in Fife, Mr Laing advised that everything had to be done through the Council. He would be given temporary accommodation. He was uncertain how long the waiting list was for properties in Dunfermline.

Reasons for Decision

12. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the oral submissions made by both Mr Wood and Mr Laing at the CMD. The Tribunal concluded that the Applicant was entitled to seek repossession of the Property under Section 33 of the Housing (Scotland) Act 1988. There was a properly constituted Short Assured Tenancy with the Respondent. The Tribunal was satisfied that the statutory provisions of Section 33 of the Housing (Scotland) Act 1988 had been met namely that the Short Assured Tenancy had reached its ish (termination date); the Notice to Quit brought the contractual Short Assured Tenancy to an end, and that the Applicant had given the Respondent notice in terms of Section 33(1)(d) of the Housing (Scotland) Act 1988 stating that possession of the property was required by 7 April 2024.

13. The terms of Section 33 of the Housing (Scotland) Act 1988 would normally entitle the Applicant to a right of mandatory repossession of the Property. In terms of Schedule 1, paragraph 3 (4) of the Coronavirus (Scotland) Act 2020 the Applicant also has to satisfy the Tribunal that it is reasonable to evict. In determining whether it is reasonable to grant the order the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal gave weight to the Applicant being elderly and wanting to put her affairs in order. Further the Tribunal gave weight to the Applicant's wish to sell the Property in order to do so. The Tribunal considered that the Respondent had not opposed the application and had sensibly taken the step to contact Fife Council to explore his housing options. The Tribunal gave considerable weight to the fact that he had been told he would be rehoused. The balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order.

14. In the circumstances the Tribunal considered that in terms of Section 33 of the Housing (Scotland) Act 1988 as amended it was reasonable to grant an eviction order.

Decision

15. The Tribunal granted an order for repossession. The decision of the Tribunal 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.

Shirley Evans

5 October 2026

Legal Member **Date**