



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 18 of the Housing (Scotland)
Act 1988**

Chamber Ref: FTS/HPC/EV/24/4763

Re: Property at 66 Malcolm Road, Glenrothes, KY7 4JX (“the Property”)

Parties:

**Alexander Brown, 4 Rosebine Gardens, Coaltown of Balgonie, Glenrothes, KY7
4JX (“the Applicant”)**

Richard Plaudis, 66 Malcolm Road, Glenrothes, KY7 4JX (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application by the Applicant for an order for possession in relation to an assured tenancy in terms of rule 65 (EV/22/2650) of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Procedure Rules”). The tenancy in question was said to be an Assured Tenancy of the Property by Applicant to the Respondent commencing on 29 November 2012. The application was dated 14 October 2024 and lodged with the Tribunal on that date.
2. The application relied upon a Notice to Quit dated 6 August 2024, providing the Respondent with notice that the Applicant sought to terminate the Tenancy by 29 September 2024 and a notice in terms of section 19 (also known as an “AT6”) of the *Housing (Scotland) Act 1988* also dated 6 August 2024. Evidence of service of both of these notices by Sheriff Officer on 12 August 2024 was included with the application.

3. The said AT6 relied upon three grounds under Schedule 5 to the 1988 Act; Grounds 11, 12 and 13. (No material information was included in the notice regarding Ground 13 and it was not relied upon in the application. There was further reference to Ground 8A in one section of the AT6 but this was not relied upon either.) In regard to Grounds 11 and 12, these relied upon rent arrears from March 2023 to August 2024 said to be £7,579.94 as at the date of the AT6. The application papers referred to the lease being an unwritten lease of 12 months duration at a monthly rent of £433.33. There was thus over 17 months of rent arrears said to be due as at the date of the AT6.
4. Evidence of a section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served upon Fife Council on 11 October 2024 was provided with the application. There was evidence in the application papers of compliance with provision of the pre-action protocol information in standard form on behalf of the Applicant to the Respondent by letter on 9 August and 4 September 2024.
5. In consideration of the application papers, and particularly issues arising from the lease being unwritten, we issued a Notice of Direction dated 25 March 2025 to seek further submissions on certain aspects of the Tenancy and the notices served, and seeking an updated rent statement. This was provided very shortly before the Case Management Discussion ("CMD") on 2 June 2025 (some time after the deadline we had set in the Notice of Direction). We had an opportunity to consider the submissions and rent statement before the CMD but there was insufficient time to send it on to the Respondent. In light of the Respondent's failure to appear, we were willing to consider the further submissions and documents in full at the CMD though late.

The Hearing

6. On 3 June 2025 at 10:00, at a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting remotely by telephone conference call, we were addressed by the Applicant's agent, Alistair Buttery, solicitor, of Whyte Fraser & Co. Mr Buttery explained that he was standing in for the principal agent who was unexpectedly unavailable, and he requested an adjournment to 10:20 to consider all the papers. This was permitted, as we were also conscious that there was no appearance for the Respondent.
7. As of 10:20, Mr Buttery was satisfied to commence and there was still no appearance by the Respondent (that is, neither he nor anyone on his behalf had dialled in). The Applicant's agent provided submissions where he was able, though did not have the benefit of full preparation for the CMD. He explained that his file papers included correspondence from an advice agency on behalf of the Respondent on 15 October 2024. This sought a "pause" in the eviction process, so as to permit the Respondent to make a payment proposal. No proposal (and no payment) had however followed and the Applicant's agent was not aware of any further engagement by the Respondent with the eviction process (or the conjoined application regarding arrears CV/24/4777). In all the circumstances, and particularly the evidence that a Sheriff Officer had intimated the date and

time of the CMD on the Respondent on behalf of the Tribunal, we were satisfied to consider the application in full at the CMD in the absence of the Respondent.

8. The Applicant's agent adopted the recent submissions provided by his office (drafted by the principal solicitor for the matter) responding to the Notice of Direction, addressing queries on various legal issues being: the style of the Notice to Quit, the ish date (termination date) of the original lease, the rent payment arrangements, and the date that the Respondent was being asked to quit in the Notice to Quit. We noted that there was no defence being extended to the competency of any of the documents relied upon in the application and therefore we did not seek further submissions from the Applicant's agent on these matters.
9. We noted that, read as a whole, the application papers stated the following position:
 - a. The Tenancy commenced in November 2012.
 - b. There was no written lease agreement.
 - c. Rent was due of £433.33 per month.
 - d. The parties to the Tenancy are the parties to this action.
 - e. The subjects let is the Property.
 - f. The initial term of the Tenancy was 12 months, to which tacit relocation has been applying since.The submissions of 2 June 2025 contained the following further statements about the nature of the Tenancy:
 - g. The Tenancy commenced on 29 November 2012.
 - h. Rent was due in advance on the 29th of each month.
10. In regard to the updated rent statement, we noted that the arrears (for the period through to 28 June 2025) were now said to be £12,366.57, with only a single payment of £220 paid since the rent payment due on 29 January 2023. (The date of the payment was not provided, but it was allocated against the rent due on 29 February 2023). There was now over 28 months of rent arrears.
11. The Applicant's agent was able to provide only limited further submissions on matters of reasonableness, given that he was covering the CMD at short notice. He had, however, been involved in discussions on the application at an earlier stage so knew some of the background. He understood that the Respondent had originally been offered the Tenancy as he was working for the Applicant or a business run by the Applicant (which he believed to be an engineering fabrication business). He understood that the Respondent no longer worked in that business, but was not aware whether this commenced with the start of the rent payments being missed. He believed that the Applicant lived alone but had no further details as to his circumstances or the nature of the Property. The Applicant's agent noted no reference to any applications for benefits in the correspondence of November 2024 from the advice agency. The Applicant's agent was not able to provide any submissions on the Applicant's financial circumstances.
12. No order for expenses was sought.

Findings in Fact

13. By an unwritten lease commencing on or about 29 November 2023, the parties agreed that the Applicant would lease the Property to the Respondent commencing at that date for an initial period of 12 months ("the Tenancy").
14. Under the Tenancy, the Respondent was to make payment of £433.33 per month in rent in advance to the Applicant on the 29th of each month.
15. On 6 August 2024, the Applicant's agent drafted a Notice to Quit addressed to the Respondent, giving the Respondent notice that the Applicant wished him to quit the Property by 29 September 2024.
16. On 6 August 2024, the Applicant's agent drafted an AT6 form addressed to the Respondent, giving the Respondent notice in terms of section 19 of the 1988 Act of an intention to raise proceedings for possession in terms of, amongst others, grounds 11 and 12 of Schedule 5 to the 1988 Act, based on there being rent arrears at that date of £7,579.94 (being over 17 months of rent arrears) as at the date of the AT6. The AT6 gave the Respondent notice that proceedings would not be raised before 30 September 2024.
17. On 12 August 2024, a Sheriff Officer acting for the Applicant competently served both of the notices upon the Respondent. The Respondent was thus provided with sufficient notice of the Applicant's intention that the Tenancy was to terminate on 29 September 2024, and that the Applicant sought to evict under the grounds set out in the AT6.
18. On 14 October 2024, the notice period under the Notice to Quit and AT6 having expired, the Applicant raised proceedings for an order for possession with the Tribunal, under rule 65, relying on the arrears still being outstanding; and that it was reasonable to make the order.
19. On 9 August and 4 September 2024, the Applicant's agent provided the Respondent with pre-action letters in terms of the relevant regulations, providing the Respondent with details as to his arrears, along with sources of advice and support.
20. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon Fife Council on 11 October 2024 on the Applicant's behalf.
21. On 17 March 2024, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD for the application of 3 June 2025.
22. The Applicant seeks to recover the Property in consideration that there are substantial unpaid arrears.

Reasons for Decision

23. The application was in terms of rule 65, being an order for possession in relation to assured tenancies. We were satisfied, on the basis of the application and supporting papers, and the submissions provided by the Applicant's agent prior to the CMD, that there was a stateable argument that a valid AT6 and Notice to Quit had been issued on the Respondent; that these had expired without the breaches in the AT6 being resolved; and that the non-payment of rent remained unaddressed as at the CMD. We were satisfied with the evidence that, as at the date of the CMD, the total arrears now amounted to over 28 months of rent arrears.
24. In light of the Respondent offering no defence to the competency of any of the documents relied upon in the application or disputing the arrears, we were satisfied to accept the Applicant's submission that (subject to reasonableness) he had satisfied the requirements for seeking eviction under section 19 in relation to Grounds 11 and 12 of Schedule 5 to the 1988 Act, though we stress that we make no greater determination on the legal issues that we raised in our Notice of Direction.
25. We require, in terms of the 1988 Act as amended, to consider whether it is reasonable to make an order for possession under Grounds 11 and 12 of Schedule 5 to the 1988 Act. The very sizable arrears, and the lack of any payment in over two years, leads us to conclude that it is reasonable and there were no material circumstances brought to the Tribunal's attention that would suggest it would be unreasonable. In all the circumstances, we were satisfied that it was reasonable to grant the application.
26. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. We were thus satisfied to grant an order for possession under both of the grounds relative to rule 65.

Decision

27. In all the circumstances, we make the decision to grant an order against the Respondent for possession of the Property under section 18 of the Housing (Scotland) Act 1988.

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

3 June 2025

Date