



**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/24/4659

Re: Property at 28 Balmoral Drive, Kirkcaldy, KY2 5QT (“the Property”)

Parties:

**Mr Paul Frame, Mrs Louise Frame, 18 Fordell Gardens, Kirkcaldy, KY2 5TL
 (“the Applicant”)**

**Miss Leanne Blacklaws, 28 Balmoral Drive, Kirkcaldy, KY2 5QT (“the
Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of section 18 and ground 1 of Schedule 5 of the Housing (Scotland) Act 1988 (“the 1988 Act”) had been met in this case, and it would be reasonable to make an eviction order.

The Tribunal therefore made an eviction order under section 18 of the 1988 Act.

Background

- 1 This is an application for an eviction order under section 18 of the 1988 Act and Rule 65 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017. The Applicants relied upon ground 1 of Schedule 5 of the 1988 Act, stating their intention to live in the property as their only or principal home.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 10 June 2025. The Tribunal gave notice of the CMD to the parties. Said notice was served upon the Respondent by sheriff officers. Both parties were invited to make written representations in advance of the CMD.

- 3 On 31 March 2025 the Tribunal received an email from the Respondent. She advised that she had no submissions to make and did not object to the application. She agreed that the Tribunal should make an eviction order. The Respondent explained that she would be on holiday abroad on the date of the CMD. However, she was not seeking a postponement as *“this has been hanging over me for 14 months now & just want it done and dusted”*.

The CMD

- 4 The CMD took place on 10 June 2025 at 10am. Mr Thomson, Solicitor, of James Thomson and Son represented the Applicants who did not join the call. The Respondent did not attend. The Tribunal had regard to her email of 31 March 2025 and was satisfied that she was aware of the CMD, and had made her position on the application clear. The Tribunal therefore determined to proceed in her absence.
- 5 The Tribunal had the following documents before it:-
- (i) Form E application form dated 8 October 2024;
 - (ii) Title sheet confirming the Applicants' ownership of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicants' landlord registration;
 - (iv) Short assured tenancy agreement between the parties and Form AT5;
 - (v) Notice to quit and Form AT6 notice of intention to raise proceedings for possession and proof of service upon the Respondent by recorded delivery mail;
 - (vi) Section 11 notice to Fife Council and proof of delivery by email;
 - (vii) The Respondent's email dated 31 March 2025.
- 6 The Tribunal heard submissions from Mr Thomson on the application before adjourning the CMD to deliberate, at which point Mr Thomson left the call. The Tribunal then resumed the CMD and confirmed the outcome.

Findings in fact

- 7 The Applicant and Respondent entered into a tenancy agreement in respect of the property, which commenced on 8 July 2017.
- 8 The tenancy between the parties was a short assured tenancy as defined by section 32 of the 1988 Act.
- 9 The Applicants have sent the Respondent a notice to quit terminating the contractual assured tenancy between the parties.
- 10 The Applicants have sent the Respondent a Form AT6 notice of their intention to raise proceedings for possession.

- 11 The notices were sent to the Respondent by recorded delivery mail on 6 August 2024. The Form AT6 notice states that an application will not be made to the Tribunal any earlier than 7 October 2024.
- 12 The Applicants have sent Fife Council a notice under section 11 of the Homelessness etc (Scotland) Act 2003 by email on 8 October 2024.
- 13 The property was previously occupied by one of the Applicants as their only or principal home. The Applicants own one other property in which they currently reside.
- 14 The Applicants have separated. The Applicants now require possession of the property so that one of them can live in it as their only or principal home.
- 15 The Applicants gave the Respondent notice at the beginning of the tenancy that possession may be sought on ground 1.
- 16 The Respondent does not object to the eviction order. The Respondent agrees that the ground for possession is met.

Reasons for decision

- 17 The Tribunal was satisfied it had sufficient information before it to make relevant findings in fact and reach a decision on the application having regard to the application paperwork and the submissions heard at the CMD. In terms of Rule 17(4) and Rule 18(1) of the Rules the Tribunal determined that it could make a decision at the CMD as there were no issues to be resolved that would require a hearing and the Tribunal was satisfied that to make a decision would not be contrary to the interests of the parties.

- 18 The Tribunal considered the following provisions of section 18 of the 1988 Act as they apply to this case:-

“(1) The First-tier Tribunal shall not make an order for possession of a house let on an assured tenancy except on one or more of the grounds set out in Schedule 5 to this Act.

(4) If the First-tier Tribunal is satisfied that any of the grounds in Part I or II of Schedule 5 to this Act is established, the Tribunal shall not make an order for possession unless the Tribunal considers it reasonable to do so.

(6) The First-tier Tribunal shall not make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, unless—

(a) the ground for possession is Ground 2... in Part I of Schedule 5 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9, Ground 10, Ground 15 or Ground 17; and

(b) the terms of the tenancy make provision for it to be brought to an end on the ground in question.”

19 Having considered the application paperwork, the Tribunal was satisfied that that the tenancy in place between the parties was a statutory assured tenancy, noting that the Applicants had sent the Respondent a notice to quit terminating the contractual tenancy on 6 August 2024. The Tribunal was also satisfied that the Applicants had sent the Respondent a Form AT6 notice of their intention to raise proceedings for possession, which complied with section 19 of the 1988 Act. The Tribunal went on to consider whether ground 1 had been met in this case.

20 Ground 1 of schedule 5 is in the following terms:-

“Not later than the beginning of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this Ground or the First-tier Tribunal is of the opinion that it is reasonable to dispense with the requirement of notice and (in either case)—

(a) at any time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the house as his only or principal home; or

(b) the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the house as his or his spouse’s or civil partner’s only or principal home, and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title from the landlord who gave the notice mentioned above acquired the landlord’s interest in the tenancy for value.”

21 The Tribunal heard submissions from Mr Thomson on the reasons for the application. The Tribunal accepted that one of the Applicants had previously occupied the property as their only or principal home, and due to a recent separation, they required the eviction order so that one of them could move out of their current shared home and into the property.

22 The Tribunal therefore considered whether it would be reasonable to make an eviction order in this case. The Tribunal took into account the Applicants’ circumstances and their reasons for requiring the property back. It was a credible explanation for why they had taken repossession action. The Tribunal also took into account their property rights as the heritable owners, which would entitle them to possession, were an assured tenancy not in place.

23 The Tribunal had little information regarding the Respondent’s circumstances. She had not provided any information to the Tribunal on this point, other than her assertion that she was not objecting to the eviction order. Whilst the risk of

homelessness to the Respondent was a concern, ultimately she had not sought to advance any defence to the application in terms of reasonableness. She had been clear in her written representations that she agreed the ground for possession was met. The Tribunal was also aware that the local authority would have obligations towards the Respondent and any persons residing with her if the Tribunal were to make an eviction order.

24 Accordingly, having assessed the above factors as relevant to reasonableness, the Tribunal concluded that the balance weighed in favour of making an eviction order in this case.

25 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.

Ruth O'Hare

10 June 2025

Legal Member/Chair

Date