



**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/24/5477**

**Re: Property at 74 G/R Arklay Street, Dundee, DD3 7LH (“the Property”)**

**Parties:**

**GPH Properties Ltd, 7 Blackford Road, Edinburgh, EH9 2DT (“the Applicant”)**

**Mr David James Ruffle, 74 G/R Arklay Street, Dundee, DD3 7LH (“the  
Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision (in absence of the Respondent)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that ground 14 of Schedule 5 of the 1988 Act has 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(1) of the 1988 Act. The Tribunal further determined to suspend execution of the order for a period of two months.

**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 Rules”). The Applicant relied upon ground 14 of schedule 5 of the 1988 Act, stating that the Respondent had allowed the condition of the property to deteriorate.
- 2** The application was referred to a case management discussion (“CMD”) to take place by teleconference on 3 June 2025 at 2pm. The Tribunal gave notification of the CMD to the parties under Rule 17(2) of the Rules by sheriff officers. Said

notification was served upon the Respondent by sheriff officers on 20 March 2025.

- 3 Both parties were invited to make written representations in advance of the CMD. No written representations were received.

### **The CMD**

- 4 The CMD took place on 3 June 2025 by teleconference. Ms Donnelly of Struan Baptie Property Management represented the Applicant. The Respondent did not join the call. The Tribunal delayed the start time of the CMD before determining to proceed in his absence, noting that he had been given proper notification of the CMD under Rule 17(2) of the Rules.
- 5 The Tribunal had the following documents before it:-
  - (i) Form E application form dated 27 November 2024;
  - (ii) Title sheet ANG41894 confirming the Applicant as the registered owner of the property;
  - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
  - (iv) Short assured tenancy agreement between the parties and associated tenancy documentation including Form AT5, all dated 28 June 2017;
  - (v) Form AT6 dated 14 May 2024 and proof of service upon the Respondent by sheriff officers on 15 May 2024;
  - (vi) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 and proof of delivery by email dated 27 November 2024; and
  - (vii) Property inspection report dated 16 November 2023.
- 6 The Tribunal heard submissions on the application from Ms Donnelly. For the avoidance of doubt the following is a summary of the key elements of the discussion and does not constitute a verbatim account.
- 7 Ms Donnelly explained that the condition of the property had deteriorated significantly. It was dirty and unclean, full of rubbish bags and junk. The Applicant had tried to arrange for cleaners to attend to assist the Respondent. The Respondent had refused all offers of help. Contractors were now reluctant to attend the property to carry out repairs due to its condition. The Applicant was concerned that the condition of the property would continue to deteriorate even further. The Applicant would be content for the Respondent to remain in the property if he cooperated with them. However, the Respondent refused to communicate with the Applicant and his agent. The last direct contact had been in March 2024 when a cleaner attended the property. The Respondent refused to allow the cleaner to carry out any work. The Applicant's agent had attended the property relatively recently but there was no answer from the Respondent. Ms Donnelly understood that he was still residing there, as the Respondent's family had not advised her otherwise. Ms Donnelly confirmed that the Applicant owned nine other rental properties.

- 8 Ms Donnelly explained that the Respondent was in his 70s. He had mobility issues and walked with the assistance of a stick. He was in receipt of Housing Benefit. Ms Donnelly was unaware of any social work involvement. Ms Donnelly explained that the Respondent appeared to be a recluse and a hoarder. He had family in the area that could help him if need be.
- 9 The Tribunal adjourned the CMD to deliberate, at which point Ms Donnelly left the call, before resuming the discussion and confirming the outcome.

### **Findings in fact**

- 10 The Applicant is the registered owner of the property. The Applicant is a registered landlord.
- 11 The Applicant and Respondent entered into a short assured tenancy agreement dated 28 June 2017, the term of which was 28 June 2017 to 29 December 2017 and monthly thereafter.
- 12 The tenancy between the parties was a short assured tenancy as defined by section 32 of the 1988 Act.
- 13 Clause 20 of the said tenancy agreement makes explicit provision for the tenancy to be brought to an end on ground 14 of schedule 5 of the 1988 Act.
- 14 On 15 May 2024, the Applicant served the Respondent with a Form AT6 – Notice of Proceedings for Possession by sheriff officers.
- 15 The Form AT6 includes ground 14 of schedule 5 of the 1988 Act and stated that proceedings for possession will not be raised any earlier than 4 June 2024.
- 16 The Form AT6 is in the format prescribed by the Assured Tenancies (Forms) (Scotland) Regulations 1988.
- 17 On 27 November 2024 the Applicant sent a notice under section 11 of the Homelessness etc (Scotland) Act 2003 to Dundee City Council by email.
- 18 The condition of the property has deteriorated owing to the Respondent's neglect. The Applicant has tried to support the Respondent in maintaining the property by arranging for cleaners to attend. The Respondent has refused the Applicant's offers of help. The Respondent has refused to engage further with the Applicant on the issue.
- 19 The Respondent is in his seventies. The Respondent has mobility issues and walks with a stick.
- 20 The Respondent has no known contact with the local authority's social work department.
- 21 The Respondent has family who live in the local area.

## Reasons for decision

**22** The Tribunal was satisfied that it could make relevant findings in fact and reach a decision on the application following the CMD, having considered the documentary evidence and the submissions from Ms Donnelly. The Respondent had not sought to challenge any of the Applicant's evidence, therefore the Tribunal did not identify any issues to be resolved and concluded that it could reach a decision without a hearing under Rule 18 of the Rules.

**23** The Tribunal considered the following provisions of section 18 of the 1988 Act:-

*“(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.”*

**24** The Tribunal accepted, based on the tenancy agreement produced, that the tenancy between the parties was an assured tenancy. The Tribunal was also satisfied that the terms of the tenancy agreement made clear provision for possession to be sought on ground 14, therefore in terms of section 18(6) of the 1988 Act there was no requirement for the Applicant to terminate the contractual tenancy between the parties prior to seeking an order for possession.

**25** The Tribunal therefore went on to consider whether ground 14 had been met in this case. Ground 14 states:-

*“The condition of the house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any one of joint tenants or any person residing or lodging with him or any sub-tenant of his; and, in the case of acts of waste by, or the neglect or default of, a person lodging with a tenant or a sub-tenant of his, the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.*

*In this Ground, “the common parts” means any part of a building containing the house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other houses.”*

- 26 The Applicant had provided evidence with the application, including a property inspection report, which showed a deterioration in the condition of the property, attributable to the Respondent’s neglect. Ms Donnelly had expanded upon this in her submissions at the CMD. She had confirmed that the condition of the property had not improved in the intervening period between the submission of the application to the Tribunal and the CMD. The Tribunal found her submissions on this point to be credible and consistent. It was clear that she had a detailed knowledge of the circumstances surrounding the tenancy. The Tribunal therefore concluded that there was sufficient evidence before it to establish ground 14 in this case.
- 27 The Tribunal therefore went on to consider whether it would be reasonable to make an eviction order on account of the facts in this case.
- 28 The Tribunal took into account the evident deterioration in the condition of the property, along with the steps that had been taken by the Applicant to support the Respondent, including arranging for contractors to attend the property to carry out cleaning on his behalf. It appeared that repossession was a last resort for the Applicant. They demonstrated a willingness to help the Respondent to sustain his tenancy but it was clear that the Respondent was simply unwilling to engage. The Tribunal also had regard to the Applicant’s concerns about further deterioration and damage to the property, which were understandable given the Respondent’s failure to address matters and comply with his tenancy obligations. These were all factors to which the Tribunal gave significant weight.
- 29 The Tribunal carefully considered the Respondent’s circumstances. The Tribunal took into account the fact that he was in his 70s and suffered from mobility issues. However, he had not sought to oppose the application, nor had he submitted any additional information to the Tribunal for consideration. The Tribunal was also conscious that the local authority would have obligations towards the Respondent in terms of offering advice and assistance if the Tribunal made an eviction order, and that the Respondent would likely have the support from his family in the local area. Whilst the impact of eviction upon the Respondent was a cause for concern given his age and his mobility issues, the Tribunal considered that this could be mitigated by a suspension of the execution of the order. This would allow the Respondent further time either to cooperate with the Applicant in addressing the condition of the property, or to obtain suitable alternative accommodation.
- 30 Accordingly, having assessed the above factors as relevant to reasonableness, the Tribunal determined that the balance weighed in favour of granting an eviction order in this case, with execution of the order suspended for a period of two months.
- 31 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.**

# R.O'Hare

**3 June 2025**

**Legal Member/Chair**

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**Date**