

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/25/0466

Re: Property at Belivat Cottage, Ardclach, By Nairn, IV12 5JE (“the Property”)

Parties:

Mr Peter Gibson, 10 Simpson Street, Nairn, IV12 4NT (“the Applicant”)

Mr Ian Innes, Mrs Karen Innes, Belivat Cottage, Ardclach, By Nairn, IV12 5JE (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought to evict the Respondents from the property.

Background

1. The Applicant submitted an application under Rule 65 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondents from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 19 May 2025 informing both parties that a CMD had been assigned for 4 July 2025 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers

the procedure to have been fair. The Respondents were invited to make written representations by 9 June 2025. No representations were received from the Respondents.

4. On 27 June 2025, the Tribunal received an email from the Applicant's representative, attaching an affidavit.

The case management discussion – 4 July 2025

5. The CMD took place by conference call. The Applicant was represented by Mr Calvin Gordon, solicitor. The Respondents did not join the call, and the discussion proceeded in their absence. The Tribunal explained the purpose of the CMD. The Applicant's representative explained that a notice to quit was served on the Respondents on 12 November 2008. The contractual assured tenancy was therefore brought to an end and a statutory tenancy began. The rent arrears have increased since the application was submitted. The sum now due by the Respondents in respect of rent arrears is £36,400. The First Respondent contacted the Applicant's representative on 9 June 2025 and indicated that the Respondents have a lot of belongings in the Property, but did not make any proposals to pay the ongoing rent or the arrears. The last payment made by the Respondents towards the rent account was on 8 November 2022. The Respondents are believed to be in employment. The Applicant understands that the Respondents do not have any dependents. It is not known to the Applicant whether the Respondents have made efforts to identify alternative accommodation. The Applicant is not aware of any health issues or vulnerabilities affecting the Respondents. The Applicant has no information to suggest that the Respondents' non payment of rent is linked to any entitlement to benefits.

Findings in Fact

6. The parties entered into an assured tenancy which commenced 8 March 2000.
7. The Applicant served Notice to Quit on the Respondents on 12 November 2008.
8. Upon expiry of the Notice to Quit, the contractual assured tenancy was brought to an end and the tenancy became a statutory assured tenancy.
9. The monthly rent due by the Respondents is £650 per month.
10. The Applicant served Proceedings (form AT6) on the Respondents by sheriff officer on 10 October 2024.
11. The Respondents have been persistently late in paying rent which was lawfully due.

12. Some rent lawfully due by the Respondents was unpaid at the date these proceedings began and at when the notice of proceedings was served.

Reason for Decision

13. The Tribunal took into account the application and supporting papers and the submissions made at the CMD. The Tribunal was satisfied that it could reach a decision on the application without a hearing under Rule 18 of the Rules and make relevant findings in fact based on the information provided by the Applicant's representative. The Tribunal did not identify any issues to be resolved in this case that would require a hearing to be fixed.
14. Having considered the application and supporting papers, the Tribunal accepted that the Respondents had been served with a valid notice of proceedings in terms of section 19 of the Housing (Scotland) Act 1988. The Tribunal therefore went on to consider whether grounds 11 and 12 had been met in this case.
15. There was no material before the Tribunal to indicate that the Respondents disputed the level of arrears as brought out in the rent statement lodged. The level of rent arrears is very substantial. The Tribunal was satisfied that the grounds for eviction were established.
16. The Tribunal considered whether it was reasonable to grant the order for eviction. The Tribunal relied heavily on the substantial level of rent arrears. The last payment made by the Respondents towards the rent account was on 8 November 2022. The Respondents have failed to meet their primary responsibility to pay rent for an extended period of time. The Respondents have not made any offer to pay the rent arrears or indeed the ongoing rent. The tenancy appears to be unaffordable to the Respondents. Taking account of these factors, the Tribunal found that it was reasonable to grant the order for eviction.

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.

Nicola Irvine

Legal Member/Chair

4 July 2025

Date