

**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/24/4971

Re: Property at 36 Mooreland Gardens, Addiewell, EH55 8JD (“the Property”)

Parties:

**Miss Pauline O'Hanlon, 11 Faraday Place, Addiewell, West Calder, EH55 8NG
 (“the Applicant”)**

**Mr Craig McAlpine, Mrs Deborah McAlpine, 36 Mooreland Gardens, Addiewell,
EH55 8JD (“the Respondent”)**

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to grant an order for eviction relying on ground 1 in
schedule 5 of the Housing (Scotland) Act 1988**

Background

1. By application dated 29 October 2024 the applicant seeks an order for eviction relying on ground 1(a) – landlord previously occupied the property as their principal home - in schedule 5 of the Housing (Scotland) Act 1988.
2. The following documents were submitted with the application:
 - Tenancy agreement
 - Form AT6 with proof of service
 - Notice to quit with proof of service
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.

- Letter of engagement regarding sale of the property
 - Pre tenancy notice
3. A case management discussion (“cmd”) was assigned for 11 August 2025.

Case management discussion – 11 August 2025- teleconference

4. The applicant was represented by Ms Mullen, solicitor, TC Young Solicitors. The respondents were not in attendance. The respondents had been served with papers by Sheriff Officers on 25 June 2025. The Tribunal was satisfied that that they had been properly notified of the cmd and proceeded in their absence in terms of rule 29.
5. Ms Mullen sought an order for eviction. She submitted that the pre-tenancy notice that had been submitted fulfilled the requirements of ground 1. She stated that the property had been the family home of the applicant and her mother. The applicant had previously resided in the property for 40 years as her principal residence. Ms Mullen referred to the detailed written submissions that set out the applicant’s medical conditions which had impacted her financial circumstances. She stated that the applicant had retired since the application had been submitted which meant that her financial circumstances were more limited. Ms Mullen stated that the property required extensive refurbishment with upgrades to the heating and electrical systems. The applicant did not have sufficient resources to fund the necessary upgrades and therefore she had no alternative but to sell the property. The written submissions set out that the applicant had inherited the property. She no longer wished to be a landlord. The property was her sole rental property.
6. Ms Mullen stated that the applicant had received a communication from the respondents via text message approximately 3 months previously stating that they had sought assistance from the local authority and required an eviction order before alternative accommodation would be provided. Ms Mullen stated that the respondents were both in their 50s. They resided with their 2 adult children. Both respondents are in employment. The applicant had previously attempted to sell the property with sitting tenants without success.

Findings in fact

7. Parties entered into an assured tenancy agreement with a commencement date of 17 July 2014.
8. Prior to the tenancy commencing the applicant served a notice on the respondents dated 17 July 2014 advising them that she may seek to recover possession relying on ground 1 in schedule 5 of the Housing (Scotland) Act 1988.
9. A valid notice to quit and AT6 (notice of proceedings of possession) were served on the respondents on 16 August 2024.
10. The AT6 specified that the applicant intended to raise proceedings for eviction relying on ground 1.
11. The applicant previously resided in the property as her principal home.
12. The applicant is unable to afford the cost or repairs and upgrades required to maintain the property in a reasonable condition.
13. The applicant has retired and is unable to work due to medical conditions.
14. The respondents have not lodged a defence to the application and did not attend the cmd to oppose an order for eviction being granted.
15. The applicant no longer wishes to be a landlord due to the financial impact of maintaining the property and the resulting stress.
16. The applicant previously attempted to sell the property with sitting tenants without success.
17. The applicant intends to sell the property.

Reasons for the decision

18. Rule 17 (4) states:

The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

19. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

20. The Tribunal was satisfied that having regard to the undisputed facts of the case it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

21. The Tribunal took into account the written and oral submissions and the various documents lodged on behalf of the applicant.

22. Ground 1(a) states that it is a ground for eviction if:

1. 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;

23. The Tribunal accepted that the notice that had been submitted with the papers dated 17 July 2014 fulfilled the requirements of ground 1. The Tribunal accepted Ms Mullen's unopposed submission that the applicant had resided in

the property as her principal home for a period of 40 years. The Tribunal found ground 1(a) to be established.

24. In terms of section 18(4) of the 1988 Act the Tribunal required to consider the reasonableness of granting an order. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against
25. The Tribunal gave particular weight to the fact that the respondents had not lodged any written defence to the application and had not attended the cmd to oppose an order being granted. The Tribunal gave weight to the information provided that the respondents had sought assistance from the local authority. The Tribunal noted that the notice to quit had been served on 16 August 2024 providing almost a full years notice prior to the cmd for the respondents to seek advice on their housing situation.
26. The Tribunal also took into account that the respondents had resided in the property for 11 years.
27. The Tribunal gave significant weight to the details provided on the applicant's personal circumstances, her medical conditions which had impacted her ability to work and afford repairs required to the property. The Tribunal accepted that the applicant had a genuine intention to sell the property and had attempted to do so with sitting tenants without success.
28. The Tribunal noted that the applicant had inherited the property and had been struggling to manage the property due to her health and financial issues.
29. In light of the difficulties experienced by the applicant in maintaining the property, her medical and financial circumstances and the lack of opposition to the application the Tribunal was satisfied that it is reasonable to grant an 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.

Mary-Claire Kelly

Legal Member/Chair

11 August 2025
Date
