

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision 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/24/3429**

**Re: Property at Flat 15, 22 Halmyre Street, Leith, Edinburgh, EH6 8QD (“the Property”)**

**Parties:**

**PLACES FOR PEOPLE SCOTLAND LTD, 1 HAY AVENUE, EDINBURGH, EH16 4RW (“the Applicant”)**

**MRS MAGDALENA RYGIELSKA, PRZEMYSŁAN RYGIELSKA (POLISH FOR BOTH RESPS), Flat 15, 22 Halmyre Street, Leith, Edinburgh, EH6 8QD; Flat 15, 22 Halmyre Street, Leith, Edinburgh, EH6 8QD (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 27<sup>th</sup> June 2024. The application was submitted under Rule 65 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on grounds 11 and 12 of the Housing (Scotland)(Act) 1988 (“the Act”).
2. On 12<sup>th</sup> February 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 20<sup>th</sup> March 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 5<sup>th</sup> March 2025.

3. On 14<sup>th</sup> February 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by personal service. This was evidenced by Certificate of Intimation dated 14<sup>th</sup> February 2025.
4. On 17<sup>th</sup> March 2025, the Applicant's solicitor emailed the Housing and Property Chamber requesting the amount sought be increased to £7945.66 for the conjoined payment application.
5. The case was conjoined with case FTS/HPC/CV/24/3431

#### The Case Management Discussion

6. A CMD was held on 20<sup>th</sup> March 2025 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Kenneth Caldwell, Partner, Patten & Prentice Solicitors. The Respondent was not present and was not represented. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither party made representations in advance of the hearing.
7. Mr Caldwell told the Tribunal that there had been discussions with the Respondent over the past year. A message had been left at his office last week by the Respondent who said that she was not able to attend the CMD. She was informed by Mr Caldwell that the CMD should not take more than 30 minutes usually and that she should email the Housing and Property Chamber to inform them. She had said that she needed an interpreter.
8. There had been an offer of her rent plus £150 per month. Overall she has been paying this. Mr Caldwell said that this needs to be formalised. The balance has not changed overall for some time as she will pay that amount and then not pay it the subsequent month. There had been a similar application to this last year. During the application process the Respondent had resumed payments and communication but these had stopped when the application was withdrawn. He is seeking to have an order in both cases which the Applicant will not enforce should payments be maintained.
9. Mr Caldwell said that the Respondent is believed to be working. There is no indication of benefits being paid. It is not known what the composition of the household is as this property was transferred over from when another company merged with the Applicant. It is a three bedroomed property.
10. The Tribunal were concerned that the Respondent may have wanted to attend today but had not realised the accessibility of the CMD particularly due to language difficulties. The Tribunal will arrange for an interpreter to attend a further CMD and for the CMD notes to be translated into Polish. It should be noted by the Respondent that failure to engage in this process could mean that she has an order for eviction granted against her. She may want to seek representation from Shelter Scotland, Citizens Advice Bureau, a law centre or other such organisations or a solicitor. The application was continued to another date to allow for an interpreter and the CMD notes to be translated.

11. The application was continued to a further CMD to allow for the Respondent to attend if she wished to do so. There will be a Polish translator at that CMD and this CMD note was to be translated into Polish.

#### Continued CMD

12. A CMD was held on 28<sup>th</sup> August 2025 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Kenneth Caldwell, Partner, Patten & Prentice Solicitors. The First Named Respondent was present and represented both Respondents. Mr Kristoff Milewski was present as a Polish interpreter for the Respondent.
13. Mr Caldwell said that the Applicant was still seeking an order for eviction. The arrears started to accrue in 2020. They rose to £6071.42. The current level of arrears is £6034.15 which is not substantially less than they were five years ago. He said that they are effectively static. Though they did increase and then decreased to this level. The Applicant is willing to take an undertaking not to enforce the Order if the Respondents agree to pay £100 per month in addition to the ongoing rent charge.
14. The Respondent said that she admitted the arrears. In 2020 her husband had an accident at work and was not able to work. This is why they initially got into arrears. She has been trying to pay them since. She is happy to pay her ongoing rent charge and £100 per month to the arrears. She asked if she should stop paying £150. The Tribunal noted that this was a minimum payment. If she is able to afford to pay £150 per month she can continue to do that. It will reduce the arrears quicker. She may want to seek money advice to help her assess her finances to ensure that she can continue to pay the rent and the minimum payment of £100 per month. She will be able to find free money advice by using Google to see what is available to her locally. She had worries about accessing such advice due to the language barrier. The Tribunal does not know the situation of each organisation but they may have access to a translator to assist her. The important point is that she must never pay less than her ongoing rent charge and £100 per month. If she pays more one month she cannot pay less the next month. She must be aware that if she fails to make these payments the Applicant will evict her. She understood this point and was content not to oppose an order being granted on this basis.
15. The Tribunal asked if she had spoken to her local authority homeless department. She said that she had not as her husband was told years ago that they did not qualify for local authority housing as they both are working. The Tribunal noted that it was not giving advice to the Respondents but that the assessment for local authority housing is different when there is the threat of eviction and when an order for eviction has actually been granted.
16. The Respondent said that she lives in the Property with her husband and two children. Her children are aged 17 and 22. Her youngest son is at high school and her eldest is a student working part time. The Respondent said that she has two jobs. One is self employed and one is as a contractor. She works as a

cleaner. Her husband works as a joiner in construction. He is self employed. They receive no benefits. There are no health issues in the household.

17. The Tribunal was satisfied that it was reasonable to grant an order for eviction particularly as there was no objection by the Respondents.

#### Findings and reason for decision

18. The parties entered into a Short Assured Tenancy on 5<sup>th</sup> December 2008 to 31<sup>st</sup> May 2019. An AT5 was signed by both parties on the same date as the lease. The rent payments of £700 are due on the first day of each month.
19. The Respondent persistently failed to pay her rent charge of initially £700 per month. During the tenancy the rent charge has increased to £1027.77. The rent payments are due to be paid on the first day of each month.
20. There are no outstanding Universal Credit Housing Element issues.
21. The arrears sought in the conjoined application are £6043.15.
22. The Respondents are to pay their rent charge of £1,027.27 plus £100 per month to the arrears. The Applicant has taken an undertaking not to evict the Respondents on the basis that this amount is paid each and every month.
23. The Respondents are not opposing an order for eviction being granted.
24. There are no issues of reasonableness which prevent an order for eviction being granted.

#### Decision

25. The Tribunal found that ground 12 has been established and the granted an order in favour of the Applicant. The Applicant is entitled to an Order for recovery of possession.

#### **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons**

for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

**Gabrielle Miller**

**28<sup>th</sup> August 2025**

**Legal Member/Chair**

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**Date**