



**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/24/1371

Re: Property at 12/5 Halmyre Street, Edinburgh, EH6 8PZ (“the Property”)

Parties:

Mr Imran Ali, 151 Kenton Lane, Newcastle-Upon-Tyne, NE3 3QB (“the Applicant”)

Mr Craig Carey, currently at Balcarres Psychiatric Ward, Royal Edinburgh Hospital, Morningside Place, Edinburgh, EH10 5HF and usually at 12/5 Halmyre Street, Edinburgh, EH6 8PZ (“the Respondent”)

Tribunal Member:

Melanie Barbour (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it would grant an order for recovery of possession of the Property.

Background

1. This is an application under rule 65. The application seeks an order for eviction of an assured tenancy.
2. The application papers included:-

- a) The tenancy agreement
- b) AT6 Notice with email service on the respondent.
- c) AT5 Notice
- d) Section 11 Notice
- e) Letter regarding alleged anti-social behaviour (undated and unsigned)
- f) Copy schedule re: email notification

3. This case called for a case management discussion on 20 January 2025. In attendance was the applicant's agent, Ms Henderson from Dunedin Property Management. There was no appearance from the respondent.
4. The case papers showed that the respondent was not currently residing at the property. He had been a patient in a hospital since May 2024. The agent confirmed that his present address remained as follows:- Balcarres Psychiatric Ward, Royal Edinburgh Hospital, Morningside Place, Edinburgh, EH10 5HF. Given this, the tribunal was not satisfied that the respondent had received notice of this application and the case management discussion. The tribunal ordered that the application be re-served on the respondent at his current address. The case was continued for re-service.
5. The case was continued to a second case management discussion on 27 June 2025. The application was served on the respondent at the hospital address on 11 April 2025. Ms Henderson from Dunedin Property Management appeared. There was no appearance by the respondent at the case management discussion on 27 June 2025. The tribunal was prepared to proceed in his absence.
6. The tribunal had raised two matters with the applicant at the first case management discussion. These matters were as follows:-

7. *First, the AT6 Notice requires that service is undertaken in accordance with the terms of the Housing (Scotland) Act 1988, section 54 which is in the following terms:-*

54. Notice under Part II. *A notice served under this Part of this Act on a person or notice so given to him may be served or given— (a) by delivering it to him; (b) by leaving it at his last known address; or (c) by sending it by recorded delivery letter to him at that address.*

8. *The applicant is required to be in a position to address the tribunal at the next case management discussion as to whether the service of the AT6 Notice satisfies section 54 of the 1988 Act, or whether it would be reasonable for the tribunal to dispense with the requirement of the AT6 Notice.*

9. *Second, the application is brought under Ground 15 of the 1988 Act, which is in the following terms:-*

Ground 15

The tenant, a person residing or lodging in the house with the tenant or a person visiting the house has—

- a) been convicted of—(i) using or allowing the house to be used for immoral or illegal purposes; or (ii) an offence punishable by imprisonment committed in, or in the locality of, the house; or*
- b) acted in an anti-social manner in relation to a person residing, visiting or otherwise engaging in lawful activity in the locality; or*
- c) pursued a course of anti-social conduct in relation to such a person as is mentioned in head (b) above.*

In this Ground “anti-social”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance, “conduct” includes speech, and a course of conduct

must involve conduct on at least two occasions and “tenant” includes any one of joint tenants.

The applicant has provided an undated and unsigned letter setting out the alleged anti-social behaviour. The complaint is in broad terms. The tribunal requires to be satisfied that the ground is met and that it would be reasonable to grant the order sought.

In order to be satisfied on these matters and to provide fair notice to the respondent, the applicant is required to provide further and better particulars setting out details of the alleged anti-social activity and reasonableness.

10. No further information was submitted by the applicant before the case management discussion on 27 June 2025. The applicant's agent did advise, however, that the respondent was still in the hospital. She thought that the respondent would be remaining in the hospital for the foreseeable future. She told the tribunal that the respondent's support worker had obtained keys for the property from the letting agent since the last case management discussion and had removed the respondent's personal belongings. The agent advised that the property was filthy and was now empty. She said that all that remained in the property was some rubbish. She advised that the support worker had provided pictures of the property to the letting agent. She said that she had not provided copies of these photographs to the tribunal as she did not think she was allowed to.
11. The tribunal advised that to grant an order, it had to be satisfied that ground 15 was met and it was reasonable to do so. They required the agent to provide the information to support the application.
12. The application was continued to a third case management discussion on 23 October 2025. In attendance was Mr Bashir from Dunedin Property Management. There was no appearance by the respondent.

13. On 22 July 2025, the applicant's agent had submitted information to the tribunal, namely : (1) an email from Edinburgh City Council dated 22 April 2025 about the respondent and making arrangements with the applicant's agent to get keys to the property for a removal contractor to give a quote to have the respondent's personal belongings removed and put into storage. The writer was a community care assistant. (2) A further email of 22 April 2025 from the same council worker advising that the respondent would not be returning to his address due to being in hospital, and there was a reference to the respondent being assessed as requiring accommodation with support. (3) There was an email dated 14 March 2025 from Police Scotland confirming that there had been a crime report prepared in relation to the property. (4) There were photographs of the property showing it to be in a very poor condition, with rubbish and debris clearly shown in the photographs.

The Case Management Discussion

14. The Applicant's agent advised that they still sought an order for possession under section 18 of the Housing (Scotland) Act 1988. They were relying on the evidence submitted. The applicant wanted to be able to sell the property.

Findings in Fact

15. The tribunal makes the following findings in fact:-

16. The landlord is Imran Ali.

17. The tenant is Craig James Carey.

18. The Property is 12/5 Halmyre Street, Edinburgh.

19. The tenancy commenced on 25 January 2013 until 25 July 2013 and continued on a month-to-month basis thereafter.
20. Clause 27 narrated that the tenancy could be terminated on breach of various grounds, including ground 15 of the Housing (Scotland) Act 1988, Schedule 5.
21. The AT6 Notice was dated 22 February 2024 and sought vacant possession as of 12 March 2024. It relied on ground 15 anti-social behaviour. Reference was made to a detailed complaint received from neighbours about alleged drug dealing from and around the property, including other people coming to the property to deal drugs from it. The AT6 Notice had been emailed to the respondent on 22 February 2024.
22. From around May 2024, the tenant appears to have been living in other accommodation as a patient due to his mental ill-health.
23. The Police Scotland advised that the property was a crime scene.
24. The respondent's support worker advised that the respondent had been assessed as requiring supported accommodation by his medical professional. The local authority was arranging to store the respondents' personal belongings.

Reasons for Decision

Grounds 15 of Schedule 5 of the Housing (Scotland) Act 1988 provide as follows:-

Ground 15

The tenant, a person residing or lodging in the house with the tenant or a person visiting the house has— been convicted of—(i) using or

allowing the house to be used for immoral or illegal purposes; or (ii) an offence punishable by imprisonment committed in, or in the locality of, the house; or acted in an anti-social manner in relation to a person residing, visiting or otherwise engaging in lawful activity in the locality; or pursued a course of anti-social conduct in relation to such a person as is mentioned in head (b) above.

In this Ground “anti-social”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance, “conduct” includes speech, and a course of conduct must involve conduct on at least two occasions and “tenant” includes any one of joint tenants.

Section 18 provides that,

(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.

(2) The following provisions of this section have effect, subject to section 19 below, in relation to proceedings for the recovery of possession of a house let on an assured tenancy.

(3)-(3A)

(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] 6 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.

(6A) Nothing in subsection (6) above affects the First-tier Tribunal's power to 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, where the ground for possession is Ground 15 in Part II of Schedule 5 to this Act.

Section 19 provides that :-

19.— Notice of proceedings for possession.

(1) The First-tier Tribunal shall not entertain proceedings for possession of a house let on an assured tenancy unless—

(a) the landlord (or, where there are joint landlords, any of them) has served on the tenant a notice in accordance with this section; or

(b) the Tribunal considers it reasonable to dispense with the requirement of such a notice.

(2) The First-tier Tribunal shall not make an order for possession on any of the grounds in Schedule 5 to this Act unless that ground and particulars of it are specified in the notice under this section;

but the grounds specified in such a notice may be altered or added to with the leave of the Tribunal.

(3) A notice under this section is one in the prescribed form informing the tenant that— ...

25. The tribunal finds that the tenancy was an assured tenancy. The ground for recovery is ground 15, and therefore, section 18(6A) may apply. We find that there has been anti-social behaviour and are satisfied that, therefore that section 18(6A) can apply in this case. The AT6 Notice was served on the Respondent by email. While not a usual form of service, giving the circumstances of this case, namely the respondent's mental ill-health, the fact he has not resided in the property since around May 2024, that the tribunal had been advised that he is not returning to the property, and this application and the application papers were sent to him at the

hospital address where he was a patient at, then in all the circumstances the tribunal are satisfied that he has had notice of these proceedings and the reasons why the order is sought. The respondent has not sought to enter any appearance and there is credible evidence that he is not returning to the property as it is no longer suitable for him. The tribunal is prepared to dispense with the formal service of the AT6 Notice on the respondent. It appears that the requirements of section 18 of the 1988 Act had been complied with.

26. Turning to whether it is reasonable to grant the order. We find that it would be reasonable to do so. The respondent has not resided in the property since around May 2024. We have been advised that it is not suitable for him and he requires supported accommodation. This information was provided by his community care worker. The neighbours' complaints indicated an ongoing course of anti-social behaviour, which appeared serious, while there is limited evidence about these allegations, we have had sight of the Police Scotland letter confirming that the property is a crime scene. The local authority was arranging to move the respondent's personal belongings from the property and store them for him. There is no indication that he wishes to return to the property, and it appears it would not be in his interests to do so. The landlord should be entitled to recover the property in order that he can use it. In all the circumstances, the facts relevant to the application support the order being granted.

27. Having considered all the papers before us and the oral submissions of the agent, we will grant an order for recovery of possession.

Decision

28. The tribunal will grant an order for recovery of possession of the Property under section 18 of the Housing (Scotland) Act 1988.

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.

Melanie Barbour

23 October 2025

Legal Member/Chair

Date