



**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/25/0239

Re: Property at 27 Oakwood Drive, Beith, KA15 1BE (“the Property”)

Parties:

Mr Douglas Aitken, Mrs Myra Aitken, 33 Lancaster Ave, Beith, KA15 1AR (“the Applicants”)

Miss Deborah Aitken, 27 Oakwood Drive, Beith, KA15 1BE (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.

Background

1. By application accepted on 25 June 2025 the applicants seek an order for eviction relying on ground 1 (landlord requires the house 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 and notice to quit with proof of service
 - Notice served on the respondent dated 4 December 2015
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003
 - Correspondence from the applicants
3. A case management discussion (“cmd”) was assigned for 28 October 2025.

4. The respondent emailed the Tribunal on 15 September 2025. She stated that she was not opposing the application and that the housing office required paperwork from the Tribunal before they would rehouse the respondent and her family. She also stated that she was unable to participate in the cmd as she had profound hearing loss.
5. The Tribunal contacted the respondent to advise her that any necessary adjustments could be made at her request to allow her to participate in the cmd such as an in person hearing or video conference. It was also suggested that she should obtain representation in order to participate. No response was received from the respondent.

Case management discussion – 28 October 2025- teleconference

6. The applicants were both present. The respondent was not in attendance. The Tribunal was satisfied that that she had been properly notified of the cmd and had been made aware that reasonable adjustments would be made at her request to the format of the hearing. In the absence of any further contact from the respondent since her email on 15 September 2025 the Tribunal proceeded in her absence in terms of rule 29.
7. The applicants sought an order for possession. They stated that the property is a 3 bedroom end of terrace house. The applicants are 63 and 59 years old. The respondent is the first applicant's sister and is approximately 48 years old. She resides with her 2 children aged 19 and 14. The respondent has had profound hearing loss since birth. She has additional health issues which have affected her mobility. The applicants stated that the property is not suitable for the respondent who has applied for housing from the local authority. She has been advised that she requires single storey accessible accommodation.
8. The applicants stated that the tenancy commenced on 1 January 2016. The property had been purchased shortly before that date. They stated that the second applicant suffers from health problems. She requires support from her 3 children who live close by. The applicants had agreed that the first applicant would move out in order to allow space for the applicant's children to provide her with care. The first applicant stated that he intended to move into the

property as his principal home in the event an eviction order was granted. The property is in close proximity to his current home.

Findings in fact and law

9. Parties entered into an assured tenancy agreement with a commencement date of 1 January 2016.
10. A valid notice to quit and AT6 (notice of proceedings of possession) were served on the respondent on 26 September 2024.
11. The AT6 specified that the applicant intended to raise proceedings for eviction relying on grounds 1.
12. Prior to the tenancy commencing the applicants had given written notice to the respondent that they may seek to rely on ground 1. The written notice was dated 4 December 2015.
13. The property is not suitable accommodation for the respondent due to her current medical conditions and lack of mobility.
14. The first applicant requires care and support from her adult children due to her current medical conditions.
15. The applicants have agreed that the first applicant will move into the property as his principal home when the tenancy terminates.
16. It is reasonable to grant an order for eviction.

Reasons for the decision

17. 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.

18. 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.

19. The Tribunal took into account the written and oral submissions and the various documents lodged by the applicants.

20. The Tribunal was satisfied that the form AT6 which had been produced complied with the requirements of section 19 of the 1988 Act.

21. Ground 1 in schedule 5 of the Housing (Scotland) Act 1988 states that it is a ground for recovery of possession:

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; or

(b)the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the house as his or his spouse's or civil partner's only or principal home, and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title from the landlord who gave the notice mentioned above acquired the landlord's interest in the tenancy for value.

22. Section 18 of the 1988 Act further specifies:

(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.

23. The Tribunal was satisfied that that the notice produced by the applicants dated 4 December 2015 gave the respondent notice that ground 1 may be relied upon. The Tribunal accepted the applicants undisputed evidence that the first applicant had a genuine intention to occupy the property as his principal home after the tenancy terminated.

24. In relation to the question of reasonableness the Tribunal gave significant weight to the respondent's email to the Tribunal confirming that she did not oppose the application and had applied for alternative accommodation from the local authority. The Tribunal also gave significant weight to the applicants' submissions that the property was not suitable for the respondent due to her current medical conditions. The Tribunal took into account that the applicants required the accommodation due to the second applicant's need for care and support from her adult children. Taking the foregoing into account the Tribunal determined that it was 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

Mary Claire Kelly

Legal Member/Chair

24 October 2025

Date

