



**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/25/2992

Re: Property at Flat 1/2, 37 Virginia Street, Glasgow, G1 1TS (“the Property”)

Parties:

Mr Brian Henderson, 3 Clarendon Road, Stirling, FK8 2RN (“the Applicant”)

Ms Maria Panizza Martins, Flat 1/2, 37 Virginia Street, Glasgow, G1 1TS (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that order is granted against the Respondent for possession of the Property under section 18 of the Housing (Scotland) Act 1988.

- Background
 1. An application was submitted to the Tribunal under Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondent under section 18 of the Housing (Scotland) Act 1988 and on the basis of Grounds 11 and 12 of Schedule 5 to the said Act.
- The Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 31 October 2025. The Applicant was represented by Ms Goodwillie of Russel & Aitken, solicitors. The Respondent appeared personally and represented herself. She was assisted by Neil McDonald, a Case Management Worker at Glasgow City Council.

3. A payment action seeking an order for recovery of rent arrears under Rule 70 was heard at the same time, under case reference FTS/HPC/CV/25/1087.
4. The Applicant's representative moved for the order for repossession to be granted. A Notice to Quit and Form AT6 had been served on the Respondent relying on grounds 11 and 12 of Schedule 5 to the 1988 Act, being the rent arrears grounds. At the date of the CMD, there were rent arrears outstanding of £2,650. The monthly rent was £850. The Property is owned by the applicant's father, who resides in a care home. He can no longer afford to meet the costs of the Property (over which there is an outstanding mortgage), and a Charge had been served by Stirling Council for care costs, which remain to be met. The Applicant requires repossession of the Property in order that it can be sold to meet their father's care costs.
5. The Respondent submitted that she resided in the Property with her 74 year-old mother. She wished to move out of the property as she can no longer afford to keep living there and she had sought advice from the local authority. She did not oppose the order being granted. She had made a referral to the Homeless Team at Glasgow City Council and they have advised that she should contact them again once an order is granted by the Tribunal. Mr McDonald confirmed that the Respondent was aware of the implications of not opposing the order being sought and the Respondent confirmed that she understood same.

- Findings in Fact

6. The Tribunal made the following findings in fact:
 - (i) The parties entered into an Assured Tenancy Agreement ("the Agreement") which commenced 2 January 2018;
 - (ii) A Notice to Quit and Form AT6 under section 19 of the 1988 Act were served on the Respondent on 22 May 2025 by recorded delivery post;
 - (iii) The Notice to Quit required the Respondent to remove from the Property by 2 July 2025;
 - (iv) The Form AT6 under section 19 of the 1988 Act relied on grounds 11 and 12 under Schedule 5 to the 1988 Act;
 - (v) The Form AT6 under section 19 of the 1988 Act advised that proceedings would not be raised before 2 July 2025;
 - (vi) The Respondent had failed to remove from the Property and continued to reside therein.

- Reasons for Decision

7. Section 18 of the 1988 Act states as follows:

18(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.

(4A) In considering for the purposes of subsection (4) above whether it is reasonable to make an order for possession on Ground 11 or 12 in Part II of Schedule 5 to this Act, the First-tier Tribunal shall have regard, in particular, to—

(a) the extent to which any delay or failure to pay rent taken into account by the Tribunal in determining that the Ground is established is or was a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit, and

(b) the extent to which the landlord has complied with the pre-action protocol specified by the Scottish Ministers in regulations.

(5) Part III of Schedule 5 to this Act shall have effect for supplementing Ground 9 in that Schedule and Part IV of that Schedule shall have effect in relation to notices given as mentioned in Grounds 1 to 5 of that Schedule.

(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 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.

(7) Subject to the preceding provisions of this section, the First-tier Tribunal may make an order for possession of a house on grounds relating to a contractual tenancy which has been terminated; and where an order is made in such circumstances, any statutory assured tenancy which has arisen on that termination shall, without any notice, end on the day on which the order takes effect.

(8) In subsection (4A) above—

(a) “relevant housing benefit” means—

(i) any rent allowance or rent rebate to which the tenant was entitled in respect of the rent under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971); or

(ii) any payment on account of any such entitlement awarded under Regulation 91 of those Regulations;

(aa) “relevant universal credit” means universal credit to which the tenant was entitled which includes an amount under section 11 of the Welfare Reform Act 2012 in respect of the rent;

(b) references to delay or failure in the payment of relevant housing benefit or relevant universal credit do not include such delay or failure so far as referable to any act or omission of the tenant.

(9) Regulations under subsection (4A)(b) may make provision about—

(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),

(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

(c) such other matters as the Scottish Ministers consider appropriate.

(10) Regulations under subsection (4A)(b) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).

8. Ground 11 of Schedule 5 to the 1988 Act states as follows:

Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.

9. Ground 12 of Schedule 5 to the 1988 Act states as follows:

Some rent lawfully due from the tenant—

(a) is unpaid on the date on which the proceedings for possession are begun; and
(b) except where subsection (1)(b) of section 19 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.

10. The Tribunal was satisfied that the grounds relied upon in the Form AT6 had been met. At the date of service of the AT6 on the Respondent, there were rent arrears of £4,250. The monthly rent was £850. At the date of the Case Management Discussion, the arrears had reduced but stood at £2,650. Accordingly, both at the date of service of the AT6 and at the date the case called before the Tribunal, there were arrears of rent due. Further, in terms of Ground 11 the Tribunal was satisfied that the Respondent had persistently delayed paying rent which has become lawfully due. The Tribunal noted that the applicant's father (being the owner of the Property) was in a difficult financial situation due to his care costs accruing and required to sell the Property in order to meet same. The Tribunal also noted that the Respondent stated that she did not oppose the order being sought and wanted to move out of the Property. Accordingly, in the absence of any opposition to the order, the Tribunal was satisfied that it was reasonable to grant the Order for Repossession as sought.

- Decision

11. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for 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.

Fiona Watson
Legal Member/Chair

Date: 31 October 2025