



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 18 (1) of the Housing
(Scotland) Act 1988**

Chamber Ref: FTS/HPC/EV/25/0213

Re: Property at 14 Millbrix Avenue, Glasgow, G14 0EP (“the Property”)

Parties:

Mrs Linda Allan, Mr Edward Allan, 31 Vanguard Street, Clydebank, G81 2NZ (“the Applicants”)

Miss Meghan Gallagher, 14 Millbrix Avenue, Glasgow, G14 0EP (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member), David Fotheringham (Ordinary Member) and Elaine Paton (Legal Member [Observer])

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession should be granted in favour of the Applicants against the Respondent. The Tribunal delayed execution until 19 January 2026.

1. An application was received from the Applicants’ solicitor on 20 January 2025 which stated that it was made under rule 66 of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The application sought recovery of possession of the property under Ground 1 as set out in schedule 5 of the 1988 Act.
2. The Applicants also made a civil proceedings application (reference no: FTS/HPC/CV/25/0215) for a payment order under rule 111 of the 2017 rules in respect of outstanding rent arrears.
3. Attached to the application form were:
 - (i) Paper apart setting out further details of the application.

- (ii) Copy tenancy agreement between the first named Applicant, Edward Allan, and the Respondent, which stated that it commenced on 1 December 2013 and purported to be signed by the parties on 22 December 2023.
 - (iii) Copy notice to quit dated 27 September 2024 requiring the Respondent to leave the property by 1 December 2024.
 - (iv) Copy form AT6 addressed to the Respondent dated 27 September 2024, citing ground 1.
 - (v) Copy certificate of service of the notice to quit and form AT6 on the Respondent by sheriff officer on behalf of the Applicants on 27 September 2024.
 - (vi) Copy notice to Glasgow City Council under section 11 of the Homelessness etc. (Scotland) Act 2003 with proof of sending by email on 15 January 2025.
4. On 18 February 2025, an amended application form was received from the Applicants' representative, clarifying that the application was brought under rule 65, rather than rule 66.
5. The application was accepted on 18 March 2025.
6. No written representations were received from the Respondent prior to the case management discussion (CMD) on 29 July 2025.

The case management discussion

7. A CMD took place by teleconference call on 29 July 2025 to discuss both the present application and the conjoined civil proceedings application. The Applicants were represented by Miss Simone Callaghan of TC Young solicitors. The Respondent was present on the call and represented herself. She was accompanied by a supporter, Mrs Elizabeth Healy.
8. Miss Callaghan confirmed that the Applicants sought a dispensation of the requirement of notice prior to the start of the tenancy that possession may be recovered on ground 1. She said that when the tenancy began, no written tenancy agreement had been issued to the Respondent. The Applicants had not given the Respondent written notice of ground 1 at the start of the tenancy.
9. The tenancy had begun on 1 December 2013, but there was no written agreement in place until 22 December 2023. The written tenancy agreement now in place had been prepared on the basis of the initial oral agreement between the parties, and included reference to ground 1.
10. The Applicants had initially bought the property with the intention that the second Applicant, Mr Edward Allan, would live there, following a separation from his wife, the first Applicant. He had lived in the property from September 2012 until late November 2012. The Applicants had then reconciled and he had moved

back into the family home. The Respondent was aware that he had occupied the property for a short time before she moved into it.

11. Miss Callaghan submitted that it was reasonable in the circumstances to dispense with the notice requirement. The Applicants had been separated since September 2024, and Mr Allan had moved out of their family home. He was currently living between his brother's property and a cousin's property. He intended to reside in the property, which was close to family members. The Respondent also owed substantial rent arrears.
12. The Respondent stated that she wished to oppose both applications. She confirmed that she had been living in the property since 1 December 2013. She had not been given a written tenancy agreement. Mr Allan is her uncle and offered her a tenancy of the property when she was 19 years old and pregnant.
13. The Respondent said that she had never been in rent arrears until there was an issue with the lack of a written tenancy agreement. She works part time and her rent is paid through universal credit. She had been asked for proof of her tenancy agreement by the DWP, and had contacted Mr Allan asking for this. He did not respond for a long time, and then eventually gave her a tenancy agreement which he had found online. The DWP said that this was not sufficient. She had then gone back to him asking again for a proper written tenancy agreement. Due to the delay, she had got into rent arrears, as payment for her housing costs stopped. She said that she did not take responsibility for the rent arrears, as they were the result of Mr Allan's failure to provide her with an appropriate tenancy agreement.
14. The Respondent denied that she had signed the tenancy agreement which had been submitted with the case papers. It appeared to have been signed by her on 23 December 2023, but she said it was not her signature and that Mr Allan had told her he would sign her name. The first time she had seen the tenancy agreement was when it was attached to the pre-action letter of 21 June 2024 which she had received from TC Young.
15. The Respondent said that when she provided the tenancy agreement to the DWP, her universal credit was backdated, but only for a certain period. She received several payments of backdated benefit, which she paid to Mr Allan. She was unclear as to the dates and amounts involved, saying that she had a lot of other things going on at the same time. She said that Mr Allan had previously taken her bank card and had been taking money out every month for the rent. She denied that she owed the arrears claimed, and said that she had made a number of payments towards the rent.
16. The Respondent disputed Mr Allan's version of events, as put forward by Miss Callaghan. She said that the Applicants were happily married and were still living together, and that Mr Allan did not intend to live in the property. She said that

the Applicants also own a villa in Spain. She believed that the Applicants wished to evict her in order to sell the property.

17. The Respondent said that she had been trying to seek advice and was waiting to get an appointment with the citizens advice bureau.

18. The Tribunal noted that the Respondent wished to oppose both of the applications. There was clearly a dispute as to the facts of the case. The Tribunal therefore decided to fix an evidential hearing on both applications.

19. The Tribunal also issued a direction to the parties on 29 July 2025, directing them to provide further information by 27 October 2025. A response was received from the Applicants' solicitor on 27 October 2025. No response was received from the Respondent.

The hearing

20. A hearing was held at Glasgow Tribunals Centre on 10 November 2025 to consider the present application and the accompanying civil proceedings application. The second Applicant, Mr Edward Allan, was present at the hearing and was represented by Mrs Claire Mullen of TC Young solicitors. The Respondent was present at the hearing and was again accompanied by Mrs Elizabeth Healy as a supporter. Mrs Healy left before the end of the hearing.

Preliminary issue

21. Mrs Mullen referred to the inventory of productions which she had submitted to the Tribunal on 27 October 2025. These had been sent to the Respondent by the Tribunal on 29 October. The Respondent said that she had not received these. The Tribunal therefore adjourned the hearing briefly to allow her to read these.

Issues before the Tribunal

22. The issues before the Tribunal were:

1. Whether the requirements of ground 1 are met, including whether to dispense with the notice requirement.
2. If so, whether it is reasonable to grant an eviction order in all the circumstances.

Submissions on behalf of the Applicants

23. Mrs Mullen asked the Tribunal to grant an eviction order in favour of the Applicants against the Respondent under ground 1. She submitted that the

requirements of ground 1 were met, and that it would be reasonable to grant an eviction order.

24. She explained that the tenancy agreement before the Tribunal was a reproduction of the original tenancy agreement which the parties had entered into on 1 December 2013. They had given the signed tenancy agreement to the benefits authorities at the time to support the Respondent's claim for housing benefit, and neither party had kept a copy. The rent had been £650 per month ever since the tenancy began.
25. Mr Allan told the Tribunal that he and the second Applicant, Mrs Linda Allan, who is his estranged wife, had originally bought the property in around October 2012. They had been having marital difficulties and had bought the property with the intention that he would live in it. He had bought the property because it was around the corner from his mother's home.
26. Mrs Mullen referred to a letter from Scottish Power dated 9 October 2012 which were addressed to Mr Allan at the property address. This stated that his new gas and electricity account had been set up. This was the only evidence that the Applicant was able to produce to show that he had been living in the property prior to the Respondent's tenancy. Mr Allan said that it was difficult to produce paperwork because he currently has no permanent base.
27. Mr Allan told the Tribunal that he had stayed at the property for around 3-4 months. He had then reconciled with Mrs Allan and moved back into the family home in Clydebank, which is around 15 minutes' walk away. The Respondent knew that he was planning to move back there and begged him to let her move into the property as a tenant. She was pregnant and was living in homeless accommodation at the time. He had never been a landlord and had no intention of becoming one, but given her situation he had agreed to let her move into the property.
28. The Respondent had told him that she needed a tenancy agreement to give the council in order to obtain housing benefit. He had downloaded a tenancy agreement and they had completed it between them. He had accompanied the Respondent to the council offices with the agreement. Neither of them had kept a copy of the tenancy agreement. He was unable to confirm whether the tenancy agreement had stated that he may wish to live in the property again in the future. He did not think that he had told the Respondent verbally that he might move back in, as he had not thought that far ahead at the time.
29. Around 5 or 6 years ago, he made the decision to pay off the mortgage over the property using all of his life savings. He thought that this was the right thing to do because the Respondent was paying the rent for the property. The Respondent had been in receipt of housing benefit, which she had then paid to him in rent each month. Each year, she had missed at least one rental payment,

sometimes two. When he had asked the Respondent about this, she had always said that there was an issue with her benefits. He now felt that he should have made more efforts to pursue her regarding these missed payments.

30. Then the Respondent missed a rental payment which was due on 26 December 2023 and also the rent for the following month. He had contacted her regarding the missed payments. She said that she had been asked to provide a tenancy agreement by the DWP, and that her benefits had been stopped because she had not produced this. When she told him this, he had tried to put a new tenancy agreement in place as quickly as possible. He had again downloaded a tenancy agreement and he and the Respondent had tried to replicate the terms of the original agreement to allow her benefits to be restarted. He had taken the tenancy agreement to the property and they had both signed it on 22 December 2023. He disputed the Respondent's contention that he had in fact signed her name on the agreement.
31. No rent had been paid by the Respondent between December 2023 and July 2024. The updated rent statement which had been submitted on 27 October 2025 showed that a payment of £325 had been made on 9 August 2024, followed by a further payment of £1009.98 on 24 August 2024 and a payment of £650 on 9 September 2024. Mr Allan said that he believed these payments were backdated payments from universal credit.
32. Mr Allan strongly denied that he had taken the Respondent's bank card as she had alleged. When the Respondent had paid the rent, it was paid by bank transfer directly from her account. He said that he believed that she had been keeping the money received from universal credit, rather than paying it to him.
33. He had been relying on the rental income from the property. When the Respondent stopped paying the rent, it put him into a financial situation from which he said he would never recover. He has not been living in the family home for around two years. He has been living with his friend Mr Duff in Dumbarton for over a year, as evidenced by Mr Duff's signed affidavit dated 23 October 2025. Prior to that he had stayed with two other friends. The current situation is not ideal as his friend lives with his wife and two teenage daughters. He is sleeping on the sofa and has nowhere to store his belongings, which are scattered around various places. His job as a railway worker takes him all over Scotland and he is often back very early in the morning, so he sleeps in his van until Mr Duff's wife and daughters have gone out before going back to the house. Mr Duff's elderly parents also stay over with him occasionally, and he does not stay with him when they are there. His relationship with Mr Duff was previously good but is now strained, but he has nowhere else to go.
34. He denied that he has ever owned a holiday home in Spain as alleged by the Respondent. He does own another property which he bought for his sister to live in with her infant son. That property has an interest-only mortgage over it. His

younger sister pays him rent which just covers the mortgage and other bills. He sees his sister as his dependant and would not therefore sell that property or move into it. He would be better off in any case if he moved into the property as there is no mortgage over it. He is financially unable to rent somewhere else to live.

35. He earns around £450 each week plus occasional overtime. He needs this money to cover his living costs. He is still paying for the running of his family home, where his wife lives with their three children who are aged 15, 18 and 19. The two older children are both at university and his youngest son is still at school. He needs somewhere permanent to live and where his children can come and stay with him.

36. He is particularly concerned about his youngest son, whom he feels does not have much direction and needs his support and guidance. He does not see him much just now, as he currently lives a 20-25 minute drive away and has nowhere to spend proper time with him. If he was living in the property, which has two bedrooms, he would be much closer and could also provide a safe and secure base for his son, as well as his two older children.

37. The situation is having a serious impact on his mental health. He had produced evidence from his GP that he has been suffering from anxiety and panic attacks and has been prescribed medication for this.

38. Mrs Mullen addressed whether the requirements of Ground 1 were met. Ground 1 states :

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.

39. Mrs Mullen acknowledged that Mr Allan was unable to confirm whether the original tenancy agreement had stated that he may wish to live in the property again in the future. She therefore invited the Tribunal to dispense with the

requirement to give notice of the ground, arguing that this was part of the assessment of reasonableness. If the Tribunal were to find that it would be reasonable to make an eviction order, it was also reasonable to dispense with the notice.

40. She submitted that part (a) of ground 1 was satisfied. Mr Allan, as one of the joint landlords, had occupied the property as his only or principal home for a brief period prior to the Respondent's tenancy, as evidenced by his oral evidence and the Scottish Power letter which had been provided.
41. If the Tribunal did not find that part (a) of ground 1 had been satisfied, she submitted that alternatively part (b) applied here. Mr Allan urgently needed to live in the property as his only or principal home, for the reasons he had explained to the Tribunal.
42. Mr Allan had told the Tribunal that he did not believe he had told the Respondent verbally that he might wish to move into the property in the future. The Respondent was a family member, however, and must have been aware that the relationship between the Applicants was tumultuous. She must have been aware when she moved into the property that there was a possibility that he would want to move back into it and live there.
43. Mrs Mullen referred the Tribunal to several case authorities which she had submitted in evidence. She referred firstly to the English Court of Appeal decision in *Boyle v Verrall* (1997) 17 HLR 260, arguing that while this was not binding on the Tribunal it was persuasive. This case concerned an application for a possession order in similar circumstance to the present case. The landlord had failed to give written notice to the tenant under an assured shorthold tenancy that they may wish to live in the property in the future. The decision concerned whether the requirement to serve notice may be dispensed with by the court, if the court considers it just and equitable to do so.
44. The Court of Appeal found that whether the landlord had given prior oral notice to the tenant of their intention to return to the property was an important factor in considering whether or not to dispense with the statutory requirement, but that oral notice was not a prerequisite. It also found that the defendant's persistent late payment of rent was a circumstance which was relevant to the exercise of the discretion to dispense with notice. The court was entitled to look at the conduct of the parties and balance their competing needs to live in the property.
45. Mrs Mullen submitted that, while no oral notice had been given to the Respondent, Mr Allan's needs should be given significant weight, given his current circumstances. He is currently sleeping on a friend's sofa or in his van. His mental health is deteriorating. He is concerned about his relationship with his youngest son. Being able to move into the property, which is close to his

family home, would give him a clear opportunity to improve his current living conditions.

46. The Respondent's conduct should be taken into account in considering whether to dispense with the notice requirement. She has paid no rent since September 2024. She had told the Tribunal that she took a positive step to suspend her housing benefit entitlement. Mr Allan's need to live in the property is greater than that of the Respondent. Even if it was the case that she did not receive a tenancy agreement from Mr Allan until June 2024, she was now being obstructive.
47. Mrs Mullen also referred the Tribunal to the Upper Tribunal decision of *Mackellar v Carlin* [2025] UT 19. In that case, the Upper Tribunal found that no reasonable tribunal could properly have concluded, on the evidence available, that it was not reasonable to grant an order for eviction in circumstances where the tenant had (i) not paid full rent in more than a year, (ii) had not responded to correspondence seeking payment of the arrears and (iii) had made no proposals whatsoever to clear the arrears or to resume full contractual payments.
48. She submitted that this decision applied in this case regarding the reasonableness both of making an eviction order and of the dispensation of notice. The Respondent had made a number of assertions at the CMD but had produced no evidence to assist the Tribunal. She invited the Tribunal to infer that the documentation did not favour the Respondent's position. It was unreasonable for the Applicants to continue to accommodate the Respondent.
49. Mrs Mullen also referred to the Upper Tribunal's discussion of reasonableness in *Stainthorpe v Carruthers and Swan* [2024] UT 30. She noted in particular that the assessment of whether it is reasonable to make an order for possession must take account all relevant circumstances as they exist at the date of the hearing, and that the Tribunal must objectively balance the rights and interests of both parties. As in that case, Mr Allan has a legal right to use and dispose of his property as he thinks fit within the constraints of planning and building law. He also has a genuine need for the property as he is currently homeless, and the Tribunal should give significant weight to this.
50. The Respondent had not proved her allegations, and no weight should therefore be given to these. The Respondent has known that Mr Allan sought to evict her since at least September 2024 and has lodged no evidence of efforts made to obtain alternative accommodation. She would be entitled to universal credit if she moved to another property.
51. Mrs Mullen submitted that for all of these reasons, it was reasonable in the circumstances to make an order for eviction and dispense with the requirement for notice under ground 1.

The Respondent's submissions

52. The Respondent said that before she moved in, she was 18, pregnant and vulnerable. She had been living in temporary homelessness accommodation for 18 months. She would have waited for a council property, but Mr Allan had come to her and offered to buy her a home to live in. He had asked her to pick a house that she wanted to live in. She had chosen the property because it was very close to her grandmother's house. Mr Allan had bought it for her and told her that she could live there for as long as she wanted.
53. She disputed that Mr Allan had ever lived in the property. She said that during the period between buying it and her moving in, he had been renovating the property. He was not living in the property during that time. She had neighbours who could confirm that he had never lived in the property. She had been living around the corner with her grandmother while he was renovating the property, and then moved in when he had finished.
54. She said that she could not recall the details of the original tenancy agreement. She remembered going to the council offices with Mr Allan, but said that he had all of the paperwork. Mr Allan had never told her he might want to move into the property himself in the future.
55. The Respondent was upset that Mr Allan wished to evict her after such a long time, but that he would not evict his sister. He had waited until the mortgage was paid off and was now being untruthful about his situation in order to get her out of the property. She said that she should not have paid him rent because various repairs needed to be carried out. None of the lights work in the property and there is mould in the toilet. Plaster had fallen from the bedroom ceiling and the roof needs fixed. Mr Allan had never carried out any repairs during her tenancy. She had not taken advice about this but had just put up with it.
56. In 2023, she had been contacted by the DWP asking her for a tenancy agreement. She had asked Mr Allan for a tenancy agreement but he did not produce this. He was harassing her to pay the rent while she was wondering where the tenancy agreement was. She had to wait so long for him to produce this that her claim was stopped. Universal Credit said that what she had given them was not a proper tenancy agreement and had pages missing. She had also lost out financially during this time as the child element of her universal credit had also been stopped. She had not seen the tenancy agreement until she got the pre-action requirement letter from TC Young, to which a copy of the agreement was attached.
57. She had then made a new claim for universal credit in around June 2024. She was paid two backdated payments in August 2024. Her benefits could only be backdated to the start of her new claim.

58. In its direction of 29 July, the Tribunal had directed the Respondent to provide as much further information and written evidence as possible about the issues which she experienced with her universal credit housing payments. This included evidence that she was asked to provide a written tenancy agreement, evidence of her attempts to obtain this from the Applicants, and the dates when her universal credit was stopped, when it started again and the period for which it was backdated.
59. The Tribunal noted that the Respondent had not provided any paperwork regarding her universal credit claim. The Respondent said that she could not obtain information from the DWP because her previous claim had been terminated, and they could not reopen an old claim.
60. The Tribunal also noted that it had suggested at the CMD that the Respondent may wish to seek advice regarding the application. She said that she had contacted the CAB but had been unable to get an appointment.
61. The Respondent had made a payment of £650 on 9 September 2024. She said that she had then cancelled her claim because Mr Allan intended to evict her, and she did not think he deserved to receive the money. Her position was that she was not liable for the arrears due for the period between 26 December 2023 and 26 July 2024. These had been caused by the Applicants' failure to provide her with an acceptable written tenancy agreement.
62. The Respondent said that she works part time locally as a home carer with the local authority. She is a single parent and has lived in the property for a long time with her 12 year old daughter. Her daughter attends a local secondary school and is quite settled there. She wishes to stay in the area. She is blind in one eye, but otherwise has no health issues. She said that she has been suffering from stress as a result of the eviction proceedings.
63. The Respondent said that Mr Allan is aware that her parents are deceased and that she has nowhere else to go. She has applied to the council for housing but was told she was not a priority. There is no housing available, and she does not want to see her daughter made homeless.
64. She said that if Mr Allan had just given her the tenancy agreement when she asked him for it, none of this would have happened. He was trying to make her and her daughter homeless and planned to sell the property because the mortgage was paid off, rather than selling his other rental property, which still had a mortgage over it.
65. She alleged that Mr Allan was still living with his wife and family in their family home. She suggested that there was little evidence that he had ever lived in the property.

66. She also said that she did not have online banking, and had never transferred the rent into Mr Allan's account. The rent was paid directly into her account, which she used only for rent purposes. She had given him her bank card, and he would take the money out of her account each month. She conceded that she had given Mr Allan authority to use her PIN number.

67. Regarding whether she had signed the tenancy agreement on 22 December 2023, she said that the signature on it was hers, but that she had not signed it herself. She said that Mr Allan had asked her to write her signature, take a photograph of it and send it to him via WhatsApp, which she had done. He had then inserted the signature into the tenancy agreement.

Findings in fact

68. The Tribunal made the following findings in fact:

- The Applicants are the owners and registered landlords of the property.
- There is an assured tenancy in place between the second Applicant, Mr Edward Allan, and the Respondent, which commenced on or around either 1 December 2012 or 1 December 2013
- The first applicant, Mrs Linda Allan, confirmed in writing on 27 October 2025 that she was aware of and concurred with the tribunal proceedings.
- The rent payable under the tenancy has been £650 per month since its commencement.
- The Notice to Quit and form AT6 were validly served on the Respondent by sheriff officer on behalf of the Applicants on 27 September 2024.
- Mr Allan moved out of his family home in Clydebank in around September 2024.
- Mr Allan is currently living with a friend and has nowhere else to go. He intends to move into the property as his only or principal home when it is available.
- Mr Allan owns another property which he rents to his sister, who lives there with her young son.
- The Respondent has been in rent arrears continuously since 26 December 2023.
- The Respondent made no rent payments for the months from December 2023 until July 2024.
- A payment of £325 was made on 9 August 2024, followed by a further payment of £1009.98 on 24 August 2024.
- There was one further rental payment of £650 on 9 September 2024.
- No further rent payments had been made since that date.
- The Respondent lives in the property with her 12 year old daughter.
- The Respondent cancelled her claim for universal credit housing costs in around September 2024.
- There is no outstanding mortgage over the property.

Reasons for decision

69. In making its decision, the Tribunal carefully considered all of the written and oral evidence submitted by both parties as at the date of the hearing. The Tribunal applied the civil burden of proof, which is the balance of probabilities.
70. The Tribunal first considered whether there was an assured tenancy in place between the parties. The parties agreed that they had entered into a tenancy agreement on or around 1 December 2013, but that neither of them had retained a copy of this. The Tribunal noted that there appear to be discrepancies regarding the various dates involved. The land certificate for the property shows that the Applicants' title to the property was registered on 9 October 2012 (with a date of entry of 26 September 2012).
71. This was more than a year before the parties agreed that the tenancy had begun, on 1 December 2013. The original application stated that Mr Allan had lived in the property from September 2012 until late November 2012. The Respondent told the Tribunal that she was pregnant at the time when Mr Allan had agreed that she could move into the property. She said that her daughter was born in October 2012.
72. While there was a dispute between the parties over whether the tenancy agreement which purported to be signed on 22 December 2023 had been signed by the Respondent, this is not directly relevant to the issues before the Tribunal. The question is whether an assured tenancy had been created between them in 2012 / 2013 and was therefore still in place. On the balance of probabilities, the Tribunal considers that the most likely explanation is that the tenancy actually commenced on 1 December 2012, and that given the time which has passed, there has been some confusion over these dates. Regardless of whether the tenancy commenced in 2012 or 2013, it would have been an assured tenancy. It was not a short assured tenancy as no valid form AT5 had been produced. The Tribunal is therefore satisfied that there is an assured tenancy in place between the parties.
73. The Tribunal then considered whether the requirements of ground 1 were met, including, if necessary, whether to dispense with the notice requirement relating to ground 1.

Are the requirements of ground 1 met?

74. The Tribunal firstly considered whether the Applicants had given prior notice in writing to the Respondent that possession might be recovered on ground 1. There was no written evidence that they had done so, as neither party had produced a copy of the original tenancy agreement. Mr Allan told the Tribunal

that he was unable to confirm whether the original tenancy agreement had stated that he may wish to live in the property again in the future. The Respondent said that Mr Allan had never told her he might want to move into the property himself in the future.

75. The Tribunal therefore concluded that Mr Allan had not given the Respondent notice in writing that he may recover possession on ground 1. Mrs Mullen had asked the Tribunal to dispense with the requirement to give notice of the ground. She submitted that this was part of the assessment of reasonableness.
76. The Tribunal considered whether part (a) of ground 1 applied in this case i.e. whether at least one of the Applicants, namely Mr Allan, had occupied the property as his only or principal home at any time before the beginning of the tenancy. The parties' evidence on this point was directly contradictory. Mr Allan said that he had lived in the property for a short time before the Respondent moved in. He told the Tribunal that he had never intended to be a landlord but the Respondent had begged him to let her live in the property, when he was about to move back into the family home.
77. The Respondent disputed this. She said that Mr Allan had bought the property specifically for her to live in. She said that he had never lived in the property but had spent some time renovating the property after he bought it, and before she moved in.
78. The only supporting evidence which Mr Allan had provided to show that he had previously lived in the property was a letter from Scottish Power dated 9 October 2012 which was addressed to him at the property address. The Tribunal does not consider that the Scottish Power letter is conclusive evidence that he previously occupied the property. Mr Allan would presumably also have required to set up a gas and electricity account in his name if he intended to carry out renovations at the property.
79. If Mr Allan did live in the property, it appears to have been for a very short time. There is English case authority to the effect that even brief or intermittent occupation by the landlord may suffice (see *Stalker: Evictions in Scotland* Edition) at page 269). While there is some doubt over exactly when Mr Allan lived in the property, the Tribunal finds that on the basis of the evidence available, on the balance of probabilities he did live there albeit briefly.
80. The Tribunal then considered whether part (b) of ground 1 applied to the situation. The Tribunal found Mr Allan's evidence about his current situation and his need to move into the property to be persuasive. The Tribunal was satisfied that he is currently sleeping on a friend's sofa and that he had not lived in his family home for around two years. While the Respondent alleged that he was in

fact currently living in his family home, she produced no evidence to support this assertion.

81. While Mr Allan does own another rental property, his sister lives in it with her infant son. He told the Tribunal that he does not wish to evict his sister, who pays him rent, which just covers the mortgage and other bills. The Respondent has not paid any rent for more than a year, which is making his financial situation very difficult. He is not in a financial position to rent privately or to buy another home to live in. The Tribunal is therefore satisfied that Mr Allan requires the property as his only or principal home. The Tribunal is also satisfied that the Applicants did not purchase the landlord's interest in the property, having bought it prior to the creation of the tenancy.
82. The Tribunal is therefore satisfied that the substantive requirements of both ground 1 (a) and ground 1(b) are met in principle, subject to consideration of whether to dispense with the notice requirement.

Should the Tribunal dispense with the notice requirement?

83. The Tribunal considered whether to dispense with the notice requirement in relation to ground 1. Firstly, the Tribunal noted that Mr Allan said that he had not given the Respondent oral notice that he may wish to move back into the property. The Respondent agreed that he had not done so.
84. The Tribunal is aware that there are several English case authorities on how to approach the issue of dispensation of notice. As noted in *Stalker: Evictions in Scotland* 2nd Edition, at page 268: *"the principle that may be derived from these authorities is that the tribunal should take into account all the circumstances, including the issue of whether the tenant or the landlord would suffer greater hardship by the tribunal granting, or refusing to grant, decree, not just the circumstances that surround the failure to give notice."*
85. Mrs Mullen had directed the Tribunal to one of these authorities, *Boyle v Verrall*. While these authorities are not binding on the Tribunal, the Tribunal is not aware of any Scottish Upper Tribunal decision on this issue. In *Boyle v Verrall*, the court found that oral notice was not a prerequisite for dispensation, and that the defendant's persistent late payment of rent was relevant to the exercise of the discretion to dispense with notice. The court was entitled to look at the conduct of the parties and balance their competing needs to live in the property. The Tribunal therefore accepted the Applicants' argument that its decision on whether to dispense with the requirement to give notice of ground 1 should be treated as part of the assessment of reasonableness.

Reasonableness

86. The Tribunal considered whether it was reasonable to issue an eviction order in all the circumstances of the case. In doing so, it took into account all of the evidence before it.
87. The Tribunal firstly took into account Mr Allan's circumstances. It was satisfied on the basis of his evidence that he has not lived in the family home for around two years and is currently homeless. He is sleeping on a friend's sofa and sometimes in his van. His financial situation is difficult, and he cannot afford to rent privately. His current situation is affecting his relationship with his children, particularly his youngest son, whom he is worried about. The situation is also affecting his mental health.
88. Mr Allan does own another rental property, but this is currently occupied by his sister and her son. He does not wish to evict them – he sees his sister as a dependant, and she is a closer family member than the Respondent. His sister is also currently paying him rent. He has received no rent from the Respondent for over a year, and this is exacerbating his difficult financial situation. Were he able to move back into the property, he would have no mortgage costs to pay.
89. The Tribunal noted that (as per *Stainthorpe v Carruthers and Swan*) the Applicants have a legal right to use and dispose of their property as they think fit, within the constraints of planning and building law. Mr Allan also has a genuine need for the property as he is currently homeless.
90. With regard to the Respondent's circumstances, she made various allegations against Mr Allan regarding his taking her bank card and adding her signature to the tenancy agreement of December 2023. In both cases, however, she appeared to have consented to these actions being taken. She also alleged that there were various unaddressed repairs issues at the property, but provided no further evidence of this. The Tribunal did not therefore take these matters into consideration.
91. The Respondent and her daughter have lived in the property for a long time. Her daughter is settled at a local school. The Respondent appears to have no other close family to rely on. The Respondent's difficulty, however, is that she has paid no rent at all for more than a year. The updated rent statement produced by the Applicants showed that she owed £12315.05 as at 26 September 2025.
92. The Respondent has alleged that some of these arrears accrued because her universal credit was stopped due to Mr Allan's failure to provide her with a tenancy agreement. The Tribunal will decide separately on the sum owed by the Respondent to the Applicants in its decision on the accompanying civil proceedings application. It is clear, however, that the arrears since September

2024 are, by the Respondent's own admission, a result of her deliberate choice to end her universal credit claim.

93. The Tribunal gave particular weight to Mr Allan's need to live in the property, and the Applicant's rights as owners of the property. It also gave significant weight to the substantial rent arrears owed by the Respondent to the Applicants, which had largely accrued due to her positive decision to end her universal credit claim.
94. Given the Respondent's conduct, the Tribunal determines that it would be reasonable to dispense with the notice of ground 1. While the circumstances may differ in some respects to those in *Mackellar v Carlin*, it is difficult to reach any conclusion other than that it would be reasonable to grant an eviction order given the length of time that the Respondent has been in arrears and the level of those arrears, largely due to her own actions.
95. The Tribunal decided that in light of all the above considerations, it was reasonable in all the circumstances to grant an order for eviction in favour of the Applicants against the Respondent.
96. The Tribunal considered whether to delay execution of the eviction order in light of the upcoming Christmas period. Mrs Mullen stated at the hearing that the Applicants opposed any delay in execution, on the basis that by the time the decision was issued and the standard 30 day period had passed, it would be January in any case.
97. The Tribunal took this into consideration. It also noted that the offices of social housing providers are often closed throughout the festive period. It therefore decided that in the circumstances it would be reasonable to delay execution until 19 January 2026, to give the Respondent further time to find alternative housing

Decision

The Tribunal grants an order in favour of the Applicants against the Respondent for recovery of possession of the property. The Tribunal delays execution of the order until 19 January 2026.

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.

S O'Neill

Sarah O'Neill

5 December 2025

Legal Member/Chair

Date