



**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/25/2327

**Re: Property at South Lodge, Castlemilk, Kettlewholm, Lockerbie, DG11 1BU
("the Property")**

Parties:

Sir John Christopher Rupert Buchanan-Jardine, Baronet of Castle Milk, Lockerbie, Dumfriesshire, DG11 1BD, Lady Pandora Lavinia Buchanan-Jardine of Castle Milk, aforesaid, and Elaine Jane McInroy of Traprain, Main Street, Guilane, East Lothian, EH31 2HD, as Trustees acting under a Deed of Trust by Sir Andrew Rupert John Buchanan-Jardine, Baronet, dated Twenty-Seventh March and registered in the Books of Council and Session on Tenth April both months in the year Two Thousand and Three, being "The Trustees of the 2003 Castle Milk Trust", c/o Castle Milk Estate Office, Norwood, Lockerbie, DG11 2QX ("the Applicants")

**Michael Dent, South Lodge, Castlemilk, Kettlewholm, Lockerbie, DG11 1BU
("the Respondent")**

Tribunal Members:

Joel Conn (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that

Background

1. This is an application by the Applicants for an order for possession in relation to an assured tenancy in terms of rule 65 (EV/22/2650) of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended ("the Procedure Rules"). The tenancy in question was said to be a short-assured tenancy of the Property by the Applicants to the Respondent

commencing on 1 April 2015. The application was dated 29 May 2025 and lodged with the Tribunal on that date.

2. The application relied upon a notice in terms of section 19 (also known as an “AT6”) of the Housing (Scotland) Act 1988 dated 25 April 2025. Evidence of service of this notice by Sheriff Officer on 29 April 2025 was included with the application.
3. The said AT6 relied upon three grounds under Schedule 5 to the 1988 Act; Grounds 11, 12 and 15:
 - a. In regard to Grounds 11 and 12, these relied upon rent arrears said to be £1,692 as at the date of the AT6. The application papers contained a statement of arrears showing that arrears had been present since at least 1 June 2022. The arrears of £1,692 were materially the missed monthly rent of £540 for January, February and March 2025.
 - b. In regard to Ground 15, reliance was made on the Respondent having been convicted of producing cannabis at the Property, and having received a 20-month sentence starting on 11 February 2025.
4. The Tenancy Agreement included with the application contained at clause TWENTY-THREE reference to the Applicants’ entitlement to seek to recover possession under each of these three grounds.
5. Evidence of a section 11 notice in terms of the Homelessness Etc. (Scotland) Act 2003 served upon Dumfries & Galloway Council on 29 May 2025 was provided with the application. The application papers contained evidence of provision of the pre-action protocol information in standard form on behalf of the Applicants to the Respondent by letters on 6 March, 25 March and 8 April 2025.
6. In advance of the case management conference (“CMD”) the Applicants’ agent lodged an updated rent statement, covering the period from 31 March 2015 until 1 December 2025. It showed the dates that the passing rent had been increased from the original £425/month to £540/month. It further showed that the rent had mostly been in arrears since 1 May 2016. According to the statement, the rent had continually been in arrears since 1 April 2020, though the sum in arrears fluctuated during that period (dropping to £72 on 31 December 2024 before starting to climb again). The arrears as of 1 December 2025 were said to be £4,272, being the highest arrears in the entire period from 31 March 2015.

The Hearing

7. On 16 December 2025 at 10:00, at a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting remotely by telephone conference call, we were addressed by the Applicants’ agent, Edward Gratwick, solicitor, of Anderson Strathern and the Respondent’s agent, Roxanne West, solicitor, of Pollock & McLean. The Applicants’ office manager, Alison Green, and estates manager, Jamie Buchanan-Jardine, were also in attendance but provided no submissions. The Respondent was not personally present.

8. The Applicants' agent confirmed that the application was still insisted upon (as was a conjoined application for arrears: CV/25/2329). In regard to arrears, he stated that a payment of £600 had been received on 12 December 2025 and the current balance was now £3,672 for the period to 31 December 2025.
9. The Respondent's agent referred to submissions having been prepared and lodged by a colleague around a week earlier. The clerk thereafter investigated but could find no trace of any such submissions. The Applicants' agent confirmed he had received none. The Respondent's agent stated that she was not the principal agent and the principal agent was engaged in another court hearing. Further, she had no access to his files at that time, so could not obtain a copy of the alleged submissions until around lunchtime. To compound the issue, the Respondent's agent said that she was not working from a copy of the written submissions but only from a set of notes. She understood these were based on the missing submissions. We proceeded with the CMD despite these limitations.
10. The Respondent's submissions on Grounds 11 and 12 were:
 - a. The sum was not admitted, as the Respondent believed his father had made further payments which had not been credited. The agent could not provide the details of the payments said to have been paid, nor the balance that the Respondent accepted was due, as she still awaited the vouching for the alleged missing payments. She was not able to say when these payments were made nor how many were said to be missing.
 - b. The Respondent accepted, however, that there was a sum in arrears (even taking into account any missing payments) but that that the Respondent expected to be able to clear the arrears in full. To do so, he was applying for a discretionary housing payment from the local authority, and expected family members could assist with paying any balance if the discretionary housing payment was insufficient. The agent could not estimate when the discretionary housing payment might be awarded, but she anticipated arrears could be cleared in the short to medium term.
 - c. The Respondent was not seeking benefits and the arrears did not arise from any issue with obtaining benefits.
- We sought further information from the Respondent's agent on the arrears but she was not able to assist further:
 - d. We noted that the rent statement referred to a payment of £540 from a George Dickinson in cash on 31 March and a further payment in the same amount by BACS on 25 April 2025. The Respondent was not able to say who Mr Dickinson was.
 - e. She accepted the Respondent was around 61 years of age but she was unaware if he was in employment, nor the source of any funds for him to make payment in rent.
 - f. She was not able to provide any details as to the reasons for previous period of arrears (prior to the arrears that grew up since his imprisonment in early 2025).
11. The Respondent's submissions on Ground 15 were materially restricted to reasonableness. She accepted the evidence lodged by the Applicants that her client had received a custodial sentence for the cultivation of cannabis at the Property but referred to a decision from Glasgow Sheriff Court of Sheriff S Reid

from 2014, which she quoted from based on a *Scottish Legal News* article. (She provided sufficient details for us to locate the case report on the SCTS website: *Glasgow Housing Association Ltd v Mark Stuart, 2014 SC GLA 65*. In her submissions, however, the Respondent's agent appeared to be working from only the press report of the case.) In respect of the authority cited, the Respondent submitted:

- a. The Sheriff found that it was not reasonable to evict in terms of Mr Stuart's conviction for cultivation of cannabis, on the basis that the plants were for personal use only.
- b. The Respondent's cultivation was similarly for personal use.

Furthermore, the Respondent made two further factual submissions about the Respondent's circumstances:

- c. That "the current landlord's father" had known that he grew cannabis and was accepting of it;
- d. That the Respondent had set up two companies as he was seeking to be involved in the supply of cannabis for medical use, and the companies would have permitted him to do so legally. The "landlord's father" also knew of these companies.

The Respondent's agent was not able to assist us with the name of the individual that the Respondent regarded as the "landlord's father" (given that the landlord has been the Trust throughout the period of the Tenancy). She was not able to assist us with a date of when such discussions were alleged to have taken place. We sought clarification as to whether there was an inconsistency with the Respondent claiming the cultivation was only for personal use, while also being involved in companies for medical marijuana (which implied a wider distribution). The Respondent's agent did not have full information as to what operations the companies undertook.

12. In regard to reasonableness generally, the Respondent's agent provided three further submissions:
 - a. That the aforementioned "landlord's father" had told the Respondent that he had a "house for life". She could not assist as to when this conversation allegedly occurred, nor how it should be contextualised given that the Respondent had been granted a short-assured tenancy of six-month duration from 1 April 2015 (continuing month to month thereafter);
 - b. That further to his expectation that he would remain there for life, the Respondent had at his own cost carried out material renovations (new doors, a new kitchen and bathroom, and constructing an outbuilding); and
 - c. The Respondent had material health problems being a "lung condition" and that he was undergoing "cancer treatment". The Respondent's agent could not assist further with the details of the conditions, the type of cancer, the prognosis, the current treatment, nor how it would affect the Respondent's ability to vacate if evicted.
13. We noted no defence being extended to the competency of any of the documents relied upon in the application. The defences were restricted to the above matters.
14. The Applicants' agent responded to the submissions made for the Respondent. In regard to Grounds 11 and 12:

- a. He did not concede that there was any error in the statement, and said that he understood that George Dickinson was the Respondent's father. (We took the implication to be that the two payments listed from him in the statement were the only payments made for the Respondent by his father.)
- b. Notwithstanding, he submitted that if there was any error in the total arrears, there remained arrears and there had been arrears for some time. The Applicants had reached the end of their patience with the arrears. He questioned whether the Respondent could afford the Property.
- c. There had been a previous application before the Tribunal in regard to rent arrears. An order for payment of £816, subject to a time to pay direction of £60 per month, had been granted on 12 June 2023 in application CV/22/3647. This order had been paid off, around the time that the Respondent was imprisoned, but the arrears had then climbed again.

In regard to Ground 14:

- d. The Applicants strongly refuted that anyone involved with the Trust would have condoned criminal behaviour. On the contrary, they simply did not wish their properties to be used for criminal purposes.
- e. He confirmed that in regard to Ground 14, paragraphs (5)(a)(i) and (5)(a)(ii) were insisted upon and he held the tests for both were satisfied. The Applicants did not rely on any argument about anti-social behaviour.
- f. He questioned the relevance of the two companies that the Respondent had been involved in, but noted two companies on Companies House that appeared to be the relevant companies: UK MM Ltd (company number SC587731) which was dissolved on 25 July 2023 and UK Medical Marijuana Ltd (company number 10548843) which was dissolved on 17 March 2020. As both were now dissolved, the Applicant's agent questioned their relevance. Further, one was dissolved by the date of the cultivation for which the Respondent had been convicted. Finally, the Applicant's agent made the obvious point that if the companies represented a defence to the criminal charge, the Respondent had not used that defence and had pled guilty to the charge for which he was imprisoned (as vouched by criminal records information lodged in the application papers).
- g. The Applicant's agent said he had taken the opportunity to skim read *Glasgow Housing Association Ltd v Mark Stuart* during the course of the CMD, and sought to distinguish it. He drew our attention to that case involving a gentleman who had been charged in connection with five immature cannabis plants, and fined £300. The Applicants could not provide details of the number of plants the Respondent had cultivated but drew the conclusion that his sentence of 20 months' imprisonment indicated a far greater number of cultivated plants.

In regard to the issues regarding reasonableness:

- h. The Applicants questioned any claim that someone had informed the Respondent that he had a "house for life" and disputed that it could have any relevance given that the Respondent had a short-assured tenancy (which was clearly not a "house for life").
- i. The Applicants submitted that any work carried out by the Respondent to the Property was his own choice to do so, given that he had a short-assured tenancy.
- j. In regard to his medical conditions, the Applicants had received comment from the Respondent about medical problems, but only in recent weeks.

The Applicants' agent regarded the information provided both then and at the CMD to have been vague.

15. We sought submissions on further procedure:
 - a. The Applicants sought an order at the CMD, arguing that all grounds were capable of being considered in full and in favour of the Applicants. If failing, they sought a hearing with witnesses and a Notice of Direction setting a timetable for the Respondent to lodge full detail of his defence with vouching in advance. We sought details of likely witnesses, in the event that we set a hearing. The Applicants' agent said that – subject to the full details of the defence being received – it would likely be their estates manager, Jamie Buchanan-Jardine plus another witness from the Estates Office.
 - b. The Respondent's agent sought a hearing with witnesses. She did not oppose a Notice of Direction setting out a deadline for lodging full details of the Respondent's defence. In regard to likely witnesses, she had no instructions but accepted that the Respondent would certainly be a witness. She could provide no details as to whether a medical witness would be required, nor any other area of evidence for which a witness, other than the Respondent (and potentially his father), would be required.

Findings in Fact

16. By a Minute of Lease for a short-assured tenancy commencing on 1 April 2015, the parties agreed that the Applicants would lease the Property to the Respondent commencing at that date for an initial period of six months and continuing "month to month thereafter" ("the Tenancy").
17. Under clause FOUR of the Tenancy Agreement, the Respondent was to make payment of £425 per month in rent in advance to the Applicant on the 1st of each month.
18. Clause TWENTY-THREE of the Tenancy Agreement, the Applicants intimated in advance that the Tenancy may be terminated "at any time in the event of one of more of the following grounds for possession" being, amongst others, grounds 11, 12 and 15.
19. The passing monthly rent was increased to £450 on 1 April 2017, £470 from 1 April 2019, £500 from 1 April 2021, and £540 from 1 January 2025.
20. On 25 April 2025, the Applicants' agent drafted an AT6 form addressed to the Respondent, giving the Respondent notice in terms of section 19 of the 1988 Act of an intention to raise proceedings for possession in terms of:
 - a. Grounds 11 and 12 of Schedule 5 to the 1988 Act, based on there being rent arrears at that date of £1,692 (being over 3 months of rent arrears) as at the date of the AT6; and
 - b. Ground 15, based on the Respondent having been "convicted of producing a controlled drug, namely cannabis, in contravention of Section 4(2)(a) of the Misuse of Drugs Act 1971 an offence punishable by imprisonment on 14 January 2025 at Dumfries Sheriff Court and sentenced to imprisonment

for a period of 20 months from 11 February 2025. The offence took place at South Lodge, Castlemilk, Kettleholm, Lockerbie, DG111BU". It further referred to this being a breach of "Clause 23 of your tenancy agreement". The AT6 gave the Respondent notice that proceedings would not be raised before 14 May 2025.

21. On 29 April 2025, a Sheriff Officer acting for the Applicants competently served the notice upon the Respondent. The Respondent was thus provided with sufficient notice that the Applicants sought to evict under the grounds set out in the AT6.
22. On 29 May 2025, the notice period under the Notice to Quit and AT6 having expired, the Applicants raised proceedings for an order for possession with the Tribunal, under rule 65, relying on the arrears still being outstanding, and the criminal conviction, and that it was reasonable to make the order.
23. On 6 March, 25 March, and 8 April 2025, the Applicants provided the Respondent with pre-action letters in terms of the relevant regulations, providing the Respondent with details as to his arrears, along with sources of advice and support.
24. On 14 January 2025, the Respondent was convicted at Dumfries Sheriff Court of an offence contrary to Section 4(2)(a) of the Misuse of Drugs Act 1971, having pled guilty of the charge that: "between 26 May 2021 and 7 July 2021, both days inclusive, at South Lodge, Castlemilk, Kettleholm, Lockerbie, you MICHAEL DENT did produce a controlled drug, namely Cannabis a Class B drug...".
25. On 11 February 2025, further to the said conviction, the Respondent was sentenced to be imprisoned for a period of 20 months from that date.
26. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Dumfries & Galloway Council on 29 May 2025 on the Applicants' behalf.
27. On 13 November 2025, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD for the application of 16 December 2025.
28. The Applicants seek to recover the Property in consideration, amongst other things, that there were unpaid arrears on the date on which the application was begun as well as arrears at the date of the service of the AT6, and that and that the Respondent been in persistent arrears. In consideration of magnitude of same, the Applicants no longer wish to lease the Property to the Respondent.
29. The Respondent has been in arrears to some extent for the entire period from 1 April 2020 to the date of this Decision.

30. The Respondent had been in arrears for the majority of the period from 1 May 2016 until 31 March 2020.
31. The Respondent failed to make payment of rent for a number of months around the time of his conviction and following his imprisonment.
32. From the date of his imprisonment, the Respondent's father made limited payments towards the rent falling due.
33. The Respondent remains in arrears as at the date of the Decision.
34. The Respondent disputes the exact amount of arrears but accepts that he is in arrears. The Respondent proposes to clear whatever arrears he accepts are due by way of a payment funded partly by a discretionary housing payment from the local authority and partly from family funding. The Respondent cannot confirm when such a payment can be made by him to the arrears as he has not yet had any discretionary housing payment approved.

Reasons for Decision

35. The application was in terms of rule 65, being an order for possession in relation to assured tenancies. We were satisfied, on the basis of the application and supporting papers, and the parties' submissions, that a valid AT6 had been issued on the Respondent; that it had expired without the arrears being cleared; and that the arrears of rent remained unaddressed as at the CMD.
36. Although parties were in dispute as to the exact level of current arrears, we did not understand there to be a dispute that the rent had been in arrears to some extent for almost the entire period since May 2016, and the entire period since March 2020. The Applicants had already raised an application before the Tribunal for payment. (They conceded the Respondent had addressed the arrears sought in that application, though we noted that the rent statement showed that the rent remained in some amount of arrears throughout the whole period that the order under application CV/22/3647 was being paid.)
37. In light of the Respondent offering no defence to the competency of any of the documents relied upon in the application nor disputing the existence of persistent arrears, we accepted the Applicants' submission that (subject to reasonableness) the Applicants had satisfied the requirements for seeking eviction under section 19 in relation to Grounds 11 and 12 of Schedule 5 to the 1988 Act. In consideration of the terms of the 1988 Act, we did not regard it necessary for us to determine the exact arrears due at the time of the AT6, application or Decision for us to consider eviction under Grounds 11 and 12.
38. We thus required, in terms of the 1988 Act as amended, to consider whether it is reasonable to make an order for possession under Grounds 11 and 12. Against this, the Respondent made the arguments: that payment of the arrears was promised; that the Respondent had been offered a "home for life" and had expended significant sums on the Property in light of this; and that he suffered

from ill-health. In light of the vague nature of the proposal to pay, the lack of information on the Respondent's ill-health, and the dispute as to whether any assurance had been provided to the Respondent about a "home for life", we considered whether a hearing on evidence was necessary.

39. We were conscious that this was only a first CMD, and that the Respondent's agent was not the principal agent and had attended in the belief that written submissions were already before us (though, unwisely, she did not have a copy of these alleged written submissions before her, so was unaware of their exact contents). In such circumstances, we did not judge the case put to us for the Respondent as his final word on any of his defences. A continuation to a hearing with witnesses so as to consider reasonableness was thus a very stateable motion by the Respondent. Nonetheless, much weighed against this. We were conscious that it was admitted that there were arrears, and it was not disputed that there had been persistent arrears for many years. Further, there was an acknowledgement by the Respondent that any payment proposal (even if the arrears were eventually agreed) was dependent on the approval of a discretionary payment. This meant, by definition, that the payment could not be relied, and the date of it – if made – could not be guaranteed. We were also conscious that the Applicants had previously required to raise an application for payment against the Respondent. (For completeness, we have separately allowed a hearing for evidence in the conjoined application for arrears CV/25/2329 in order to determine the precise amount of arrears.)
40. The Applicants' submissions were that there were arrears and persistent poor payment, and that they had reached the end of their patience with the Respondent. In all the circumstances, we found the Applicants' argument on reasonableness, and for a decision to be made at the CMD, the stronger argument. We could not see a situation where the Respondent's health conditions would outweigh the Applicants' argument on reasonableness. For completeness in regard to the Respondent's remaining argument regarding a "home for life", even if the Respondent was able to prove that someone in a position of authority with the Applicants had made such a comment, he had no such "home for life". He had a short-assured tenancy, with material provisions which included payment obligations and obligations not to breach Ground 15 regarding criminal activity at the Property. He had clearly been convicted of an imprisonable offence conducted from the Property and any alleged assurance of a "home for life" could not give him a right to remain when in breach of the Tenancy over arrears and criminal conduct.
41. We thus see the criminal conviction and imprisonment as relevant both in answering one of the Respondent's arguments on reasonableness, and as an additional argument in reasonableness in favour of the Applicants. This is despite us declining to consider whether Ground 15 was made out. To consider reasonableness in regards to Ground 15 we would require to hear evidence of the alleged knowledge of the "landlord's father" and assess the Applicants' claim that they wish to take a hard line on the use of the Property for cultivating cannabis. Further, if the Respondent wished us to take into account the Sheriff's reasoning in *Glasgow Housing Association Ltd v Mark Stuart*, we agree with the Applicants' argument that consideration would require to be made of the

magnitude of the cultivation of cannabis. For these reasons, witness evidence would be required for us to consider Ground 15 in full. In light of our decision on Grounds 11 and 12 we decline to assign a hearing with witnesses on Ground 15 nor consider it any further at this time.

42. In all the circumstances, we were satisfied that it was reasonable to grant the application in terms of Grounds 11 and 12. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. We were thus satisfied to grant an order for possession under both Grounds 11 and 12 relative to rule 65.

Decision

43. In all the circumstances, we make the decision to grant an order against the Respondent for possession of the Property under section 18 of the Housing (Scotland) Act 1988 in terms of Grounds 11 and 12.

Expenses

44. After we gave our decision orally, the Applicants' agent sought expenses of the CMD itself, on the basis that significant time was taken considering defences that the Respondent had failed to set out fully.
45. We accept that a CMD of two hours in duration is a long CMD but it is not an unheard-of duration. Further, this was a CMD considering three separate grounds of eviction. It had much to consider, and thus it required to take time. In considering it, we did not discount all of the Respondent's submissions. Some (in regard to Ground 15) we held as appropriate for further consideration. Others (in regards to Grounds 11 and 12) we required to balance carefully and consider. We accept that all of the Respondent's submissions could have been made in a far more vouched and clear fashion, but we do not find that any part of the test for expenses in Rule 40 was made out. We could not see in what way there was "unreasonable behaviour" by the Respondent nor that the Applicants were put to "unnecessary or unreasonable expenses" just because it was a long CMD. We refused the motion for expenses.

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.

Legal Member/Chair

Date