



Decision 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/25/2674

Re: Property at Flat 2/2, 40 Burnbank Road, Hamilton, Lanarkshire, ML3 9AQ (“the Property”)

Parties:

Executors Nominate of the Late Mary Higgins, Executors Nominate of the Late Mary Higgins, 14 Ochiltree Drive, Hamilton, ML3 9NH; 5 Barr Grove, Uddingston, Lanarkshire, G71 6TL (“the Applicants”)

Mr James Williams, Flat 2/2, 40 Burnbank Road, Hamilton, Lanarkshire, ML3 9AQ (“the Respondent”)

Tribunal Members:

Rory Cowan (Legal Member) and Melanie Booth (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it was reasonable to issue an order for possession.

• **Background**

By application dated 18 June 2025 (the Application), the Applicants seek an order for possession relative to the Property in terms of ground 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 (the 1988 Act). With the Application, various supporting documents were lodged, including:

- 1) Copy assured tenancy dated 15 April 2011;
- 2) Notice to Quit dated 7 January 2025 (served by sheriff officers on 23 January 2025);
- 3) Form AT6 dated 23 January 2025 (again served by sheriff officers on 23 January 2025);
- 4) Rent statement; and
- 5) Pre-application correspondence.

By email dated 21 November 2025, the Applicants lodged a further updated rent statement showing further arrears. On 7 January 2026 the Respondent's representatives sent an email indicating they had been instructed on his behalf in relation to the Application.

- The Case Management Discussion

Following acceptance of the Application, a Case Management Discussion (CMD) was fixed for 16 January 2026 to be heard by way of conference call. A Mr Butterly, solicitor appeared with and on behalf of the Applicants. A Mr Law of Hamilton Citizen's Advice Bureau appeared on behalf of the Respondent. Mr Butterly indicated that, although all the arrears had been cleared by the Respondent, his instructions were to seek an order for possession under grounds 11 and 12 of schedule 5 of the 1988 Act and that these grounds had been made out. Mr Law indicated that this was not opposed and that the Respondent intended to leave the Property. Mr Law indicated that the Respondent was therefore agreeable to the grant of an order for possession and that there should be no delay in enforcement ordered in relation to same.

- Reasons for Decision

Given the joint position of the parties, the Tribunal decided that it was reasonable to grant the order for possession as sought by the Applicants in terms of grounds 11 and 12 of schedule 5 of the 1988 Act and not to order any delay in the enforcement of same. In the circumstances, as it is an agreed position of the parties, the Tribunal opted not to make any findings in fact and the reasons for granting the order for possession are as stated above. The decision of the Tribunal was unanimous.

- Decision

That it was reasonable in the circumstances to grant an order for possession.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Rory Cowan

Legal Member/Chair

16 January 2026

Date