



**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/25/3082**

**Re: Property at 288 SANDRAY PARK, GLENROTHES, FIFE, KY7 6RP (“the  
Property”)**

**Parties:**

**Mr Jack McDowell, 10 Toft Hill, Markingh, Fife, KY7 6NE (“the Applicant”)**

**Ms Aleksandra Jermacenko, 288 Sandray Park, Glenrothes, Fife, KY7 6RP (“the  
Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Ms A Moore (Ordinary Member)**

**Decision (in absence of the Respondent)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession should be granted.

**Background**

1. This is a Rule 65 application whereby the Applicant is seeking an order for possession of the Property, under grounds 11 and 12 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant representative lodged a copy of a short assured tenancy that commenced on 24<sup>th</sup> April until 23<sup>rd</sup> October 2009 and monthly thereafter, together with notice to quit and Form AT6, both with evidence of service, section 11 notice with evidence of service, rent statement showing arrears in the sum of £4992.12, and pre-action requirement correspondence.
2. The application and notification of a forthcoming Case Management Discussion was made by Sheriff Officer upon the Respondent on 8<sup>th</sup> December 2025.
3. By email dated 9<sup>th</sup> December 2025, the Applicant representative lodged an updated rent statement showing arrears in the sum of £6479.12.
4. By email dated 24<sup>th</sup> December 2025, the Applicant representative lodged an updated rent statement showing arrears in the sum of £6829.12.

## **The Case Management Discussion**

5. A CMD took place by telephone conference on 29<sup>th</sup> January 2026. Neither party was in attendance. The Applicant was represented by Ms Helen Couser, Fife Letting Services.
6. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied in respect of the Respondent. The Tribunal considered it was appropriate to proceed with the application in the absence of the Respondent.
7. Ms Couser said there had been no recent communication from or contact with the Respondent. The Respondent had asked the Applicant at the end of last year if he would instruct a home report, as she was interested in purchasing the Property with her partner. The Applicant did not believe the Respondent was serious in her intention to purchase the Property, given the level of rent arrears, so he did not instruct a home report.
8. Ms Couser said the Applicant is seeking an order for possession. The rent arrears are now £7179.12. No rent has been paid by the Respondent since July 2025, when £200 was paid. The monthly rent is £350. This has never been increased since the tenancy commenced. Ms Couser said the Applicant has been patient with the Respondent, and the letting agent has done everything they can to try to assist the Respondent. Ms Couser said the letting agent assisted the Respondent to make an application to the local authority for a grant during the Covid-19 pandemic. The grant would have cleared the arrears at that time, but the Respondent failed to engage. Regular correspondence has been issued to the Respondent, but the arrears have continued to accrue.
9. Ms Couser said the Applicant is not in employment and derives his income from letting nine properties, all of which are mortgaged. The failure to pay the rent has financial implications for him, and he is required to subsidise the mortgage on the Property. The Applicant is suffering stress as a result of the situation.
10. Ms Couser said the Respondent is not believed to be in employment. She is believed to be in receipt of Universal Credit. An application to have rent paid directly to the Applicant was unsuccessful. The Respondent has been a student in the past, and there was a shortfall between her bursary and the rent. The Respondent stated at that time that she could not afford to pay the full rent. The Respondent is believed to have an adult child. The Property is a one-bedroom property. Ms Couser said there was no evidence that the child lived at the Property during recent routine inspections. The Respondent has mentioned a partner, but it is not known if her partner resides at the Property.

## **Findings in Fact and Law**

- 11.

- (i) Parties entered into a short assured tenancy commencing on 24<sup>th</sup> April 2009 until 23<sup>rd</sup> October 2009 and continuing monthly thereafter, at a monthly rent of £350.
- (ii) The contractual tenancy came to an end on 23<sup>rd</sup> May 2024.
- (iii) The Applicant has served Form AT6 upon the Respondent.
- (iv) The Respondent has persistently delayed paying rent which has become lawfully due.
- (v) Rent lawfully due from the Respondent was unpaid on the date on which proceedings for possession were begun.
- (vi) The Respondent was in arrears at the date of service of the Form AT6.
- (vii) It is reasonable to grant an order for possession.

### **Reasons for Decision**

12. Ground 11 of schedule 5 to the 1988 Act is met if, 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. Ground 12 is met if 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, the tenant was in arrears at the date of the service of the notice under that section relating to those proceedings. Section 19(1)(b) of the 1988 Act does not apply. The Tribunal was satisfied that grounds 11 and 12 are met.
13. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
14. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Tribunal was satisfied on the evidence before it that the Applicant has complied with the pre-action protocol by sending emails and letters to the Respondent through the letting agent.
15. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.

16. The Respondent has not paid rent since July 2025, by which time she already had considerable rent arrears due to periods of non-payment and periods of reduced payments. The arrears are substantial and rising. The Respondent did not see fit to attend the CMD or make any representations to assist the Tribunal in considering reasonableness. The Tribunal took into account the limited information provided by the Applicant representative on the Respondent's circumstances. The Tribunal noted there were not thought to be any children in the Property. The Tribunal was unable to assess the likely effect of an order for possession upon the Respondent in the absence of any representations. The Respondent has disengaged and is making no effort to pay the rent or address the arrears. The Respondent has failed to address the arrears over a lengthy period despite the efforts of the letting agent. The Tribunal considered it likely that, if no order was granted, the arrears would continue to rise. The Tribunal considered the tenancy is not sustainable
17. The Tribunal took into account the information provided regarding the Applicant's circumstances. The Tribunal considered that the Applicant is suffering financially and personally as a result of the Respondent's failure to pay the rent and address the arrears.
18. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

## **Decision**

19. An order for possession in respect of the Property is granted. The order is not to be executed prior to 12 noon on 3<sup>rd</sup> March 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.**

Helen Forbes

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Legal Member/Chair

Date: 29<sup>th</sup> January 2026