



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/24/5467

Re: Property at 60 Millgate Crescent, Airdrie, ML6 7QZ (“the Property”)

Parties:

Mrs Mary Burns, Mr Paul Burns, 4 Clossfoot Place, Glasgow, G69 0NF (“the Applicants”)

Miss Carly Dalrymple, 60 Millgate Crescent, Airdrie, ML6 7QZ (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Ann Moore (Ordinary Member)

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 of the order until 27 May 2026.

Background

1. An application was received on 5 November 2024 from the Applicants' representative under rule 65 of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”) seeking recovery of possession of the property under Grounds 11 and 12 as set out in schedule 5 of the 1988 Act. The application was submitted in the sole name of the second Applicant, Mr Paul Burns.
2. Further to a request from the tribunal administration, further information was received from the Applicant's representative, namely:

- (i) Copy rent statement showing the Respondent's outstanding rent arrears to be £6401.38 as at 30 June 2024.
 - (ii) Copy form AT6 addressed to the Respondent dated 1 June 2024, citing grounds 11 and 12.
 - (iii) Copy short assured tenancy agreement between the parties in relation to the property, which commenced on 30 September 2014.
 - (iv) Copy form AT5 in respect of the short assured tenancy agreement dated 30 June 2014.
 - (v) Copy notice to North Lanarkshire Council under section 11 of the Homelessness etc. (Scotland) Act 2003.
3. Following a further request from the tribunal administration, an amended application form naming both of the Applicants was received on 21 February 2025. On the same date, the Applicants' representative submitted a certificate of posting dated 30 May 2024 and proof of delivery dated 1 June 2024 with regard to the form AT6, and a covering email to North Lanarkshire Council dated 12 July 2024, attaching the section 11 notice.
 4. The application was accepted on 24 March 2025.
 5. A case management discussion (CMD) was fixed for 19 August 2025.
 6. Written representations were received from the Respondent on 22 and 24 July 2025.
 7. The tribunal issued a direction to the Applicants on 23 July 2025, requiring them to provide various information. A response was received from the Applicants' representative on 30 July 2025. The Tribunal issued a further direction to the Applicants on 30 July 2025, requiring them to provide further information. No response was received in advance of the CMD.

The two case management discussions (CMDs)

8. The first CMD was held by teleconference call on 19 August 2025. Miss Lisa Scott and Mrs Victoria Lafferty of Empire Property represented the Applicants. The Respondent was present on the call and represented herself.
9. The Respondent stated that she wished to oppose the application. The Tribunal noted that there were questions over: 1) the validity of form AT6 which had been sent to the Respondent and 2) whether a notice to quit should have been sent to the Respondent. The Tribunal needed to consider these preliminary issues before it could take the application forward, to ensure that the application was valid in terms of the Tribunal's rules.

10. The Respondent said that she had entered into a payment plan with the Applicants and had been paying £40 per month towards her arrears via deductions from her universal credit since October 2024. She had been advised by a senior employee of Empire Property after receiving the form AT6 that “the AT6 would not stand”, and that the Applicants would not make an eviction application to the Tribunal, because she had an agreed payment plan in place.
11. The Applicants had sent her a rent increase notice in May 2025, advising that her rent would be increasing from £550 to £850 from June 2025. She now had confirmation that her monthly universal credit payments would be increased to £675. This was the maximum amount that could be paid to her. The DWP had asked her to provide a form AT2 (which she had not received), and suggested that she should agree with the Applicants an amount which was affordable each month.
12. Mrs Lafferty said that the Applicants had changed their minds and decided to progress with the eviction application. They had given the Respondent one month’s notice of the proposed rent increase, as provided for in the tenancy agreement.
13. The Tribunal noted that the tenancy agreement made provision at clause 6.2 for the rent to be increased after the initial six months of the agreement, subject to one month’s notice being given to the Respondent. A form AT2 was not therefore required.
14. The Tribunal decided that the CMD should be adjourned to allow the Applicants’ representatives to submit further information. It also issued a third direction to the Applicants requiring them to provide:
 - 1) A copy of the Notice to Quit, or if the Applicants did not consider that a Notice to Quit is required in connection with the application, a clear explanation of why they believed this to be the case.
 - 2) Evidence of compliance with the pre-action protocol.
 - 3) A full up to date rent statement showing the full history of the Respondent’s alleged arrears.
15. A response to the direction was received from the Applicants’ representative on 4 September 2025. A further submission was received from the Applicants’ representative on 7 October 2025. Written submissions were received from the Respondent on 19 August and 29 September 2025.

16. The adjourned CMD was held by teleconference call on 4 November 2025. Miss Scott and Mrs Lafferty again represented the Applicants. The Respondent was present on the call and represented herself.
17. The Tribunal referred to the two preliminary issues identified at the first CMD. Firstly, the Tribunal was satisfied following the submissions received from the Applicant's representative that a Notice to Quit was not required because the terms of the tenancy agreement made provision (at clause 34.4) for the tenancy to be brought to an end on grounds 11 and 12.
18. The second issue was the form AT6, which was dated 1 June 2024, but had been posted on 31 May and received by the Respondent on 1 June 2024. While ideally the form should have been dated 1 June, the Tribunal considered that the date of service i.e. 1 June 2024 was the important date. The notice was in the prescribed form. The minimum period to be specified in the notice was two weeks, given the grounds relied on, in terms of section 19 (4) of the Housing (Scotland) Act 1988. The date specified in the AT6 was 15 June 2024. The AT6 had therefore been served two weeks before this date.
19. The Tribunal was therefore satisfied that the application was a valid application.
20. The Respondent confirmed that she still wished to oppose the application. She confirmed that she had continued to pay £40 per month towards her arrears as per the agreed payment plan. She had been to the citizens advice bureau about the recent rent increase. She stated that she was willing to pay a total of £700 in rent to the Applicants, paying the £25 per month balance herself, in addition to the £40 per month agreed under the payment plan.
21. Miss Scott said that the Applicants' mortgage had increased substantially, and that they were now in financial deficit each month with regard to the property. The current market rent for a similar property in the area was £895 per month. The Applicants had set the new rent lower than this, at £850 per month, in order to cover their monthly expenses.
22. The Tribunal concluded on the basis of the available evidence that grounds 11 and 12 had been established.
23. The Tribunal fixed an evidential hearing to consider the question of reasonableness. It issued a further direction to the parties on 4 November 2025, inviting the parties to provide further information in advance of the hearing.
24. Responses to the direction of 4 November were received from the Applicant's

representative on 13,16 and 23 February 2026. No response was received from the Respondent.

The hearing

25. A hearing was held by teleconference call on 4 November 2025. Miss Scott represented the Applicants. The Respondent was present on the call and represented herself. Neither party called any witnesses to give evidence.

Preliminary issue

26. The Tribunal noted that the most recent submission on behalf of the Applicants had been submitted on 23 February, the day before the hearing. This was less than 7 days before the hearing, as required by the 2017 rules.

27. Miss Scott said that the submission was late because she had only received the text messages submitted from the Applicants the previous day, as they had been retrieved from an old mobile phone. The Respondent did not object to the submission being considered by the Tribunal. Given this, and noting that the text messages were brief and that the Respondent had seen them prior to the hearing, the Tribunal allowed them to be lodged late.

Submissions on behalf of the Applicants

28. Miss Scott asked the Tribunal to grant an eviction order in favour of the Applicants on grounds 11 and 12. The Respondent owed significant rent arrears, which amounted to £7455.19 at 13 February 2026. While she had continued to pay £40 towards the arrears, and universal credit was paying £675 per month, the arrears were increasing due to the increased rent and the shortfall in the amount paid each month.

29. The Applicants' interest-only mortgage had come to an end within the last year, and they now had a repayment mortgage. The monthly payments had therefore increased to £716 per month, as shown on the bank statement submitted. The Applicants paid Empire Property a monthly management fee of 12% of the rent plus VAT. They also had insurance costs to pay regarding the property, although she was uncertain how much these were. The Applicants were therefore unable to accept the Respondent's offer to pay rent of £700 per month, which would not cover the costs involved in renting the property. Given their financial situation regarding the property, they now intended to sell it.

30. Miss Scott confirmed that the Applicants do not own any other rental properties. They are both in full time employment and have one young child.

The Respondent's submissions

31. The Respondent said that she took full responsibility for her arrears. She felt that the Applicants could have taken action sooner, rather than allowing the arrears to reach their present stage. She had originally got into arrears because she was only receiving universal credit payments of £495 per month towards her £550 rent. She had agreed a payment plan of £40 per month with the manager at Empire Property, which she had stuck to since November 2024. He had told her that so long as she kept making these payments, the Applicants would not take eviction action.
32. She had been making progress towards clearing the arrears, but the significant rent increase of £300 per month had made things very difficult for her. While she understood that the Applicants had to increase the rent, this was a very big rise all at once. She had offered to pay £700 per month, as well as the agreed £40 per month towards the arrears. She had tried everything she possibly could to stay in the property.
33. The Respondent also said that the Applicants had not maintained the property in a good state of repair during her tenancy. She had to buy linoleum for the bathroom because the cracked tiles were cutting her feet. She had been told that a new bathroom would be installed, but this had not happened. The living room ceiling was also damp.
34. She is not currently working. She was previously working for the NHS staff bank as a support worker, but had found that doing even one or two shifts led to her universal credit being stopped. While she would like to work, she stopped working due to the impact this was having on her rent payments.
35. Her son and daughter (aged 18 and 22) had been living with her, but were now living with their father given her situation and the impact on her health. She suffers from anxiety and is in receipt of Adult Disability Payment due to a back condition, for which she is awaiting surgery, and which affects her mobility to a degree. Her doctors have advised that she should not be working at present given her health condition.
36. She has spoken to the council and has made a housing application. The council has told her that it cannot assist her until she has an eviction order. Because her children are not classed as dependants, she is not seen as a priority. She has been told that she is likely to be placed in temporary accommodation. Her daughter is looking for her own home, and her son, who is at college, was required to submit his own application stating that he wishes to live with the Respondent.

37. She has lived in the same village for her whole life and all of her family, including her children, live there. She would like to stay there but thinks that it is unlikely that she will find alternative accommodation there. She would prefer to find social housing as this would be more affordable and offer her greater security.

Findings in fact

38. The Tribunal made the following findings in fact:

- The Applicants own the property and the second Respondent is the registered landlord for the property.
- The parties entered into a short assured tenancy with regard to the property on 30 September 2014.
- The tenancy agreement made provision for the rent to be increased after the initial six months of the tenancy, subject to one month's notice being given to the Respondent.
- The rent payable under the tenancy was £550 per month from its commencement until May 2025.
- The rent was increased to £850 per month in June 2025. The Applicants gave the Respondent one month's notice of the increase in line with the tenancy agreement.
- No Notice to Quit was required because the terms of the tenancy agreement made provision for the tenancy to be brought to an end on grounds 11 and 12.
- The form AT6 met the necessary statutory requirements. It was validly served on the Respondent by recorded delivery post on 1 June 2024.
- The Applicant sent a valid notice to North Lanarkshire Council under section 11 of the Homelessness etc. (Scotland) Act 2003 on 12 July 2024.
- The Respondent has been in rent arrears continuously since June 2015.
- The Respondent entered into a payment plan with the Applicants and has been paying £40 per month towards the arrears since November 2024.
- As at the date of the hearing, the Respondent's rent arrears totalled £7455.19.
- The Applicants own no other rental properties.
- The Applicants have a mortgage over the property. Their mortgage and other costs associated with renting the property are now greater than the rent being received from the Respondent.
- The property is a three- bedroomed house.
- The Respondent is currently residing alone in the property.
- The Respondent has no dependent children. Her adult children are currently living with their father.

- The Respondent is in receipt of universal credit and Adult Disability Payment.
- The universal credit housing payment of £675 per month is insufficient to cover the rent.

Reasons for decision

39. The Tribunal was satisfied that the requirements of both Grounds 11 and 12, as set out in Schedule 5 of the 1988 Act had been met. In terms of Ground 11, the Respondent had persistently delayed paying rent which has become lawfully due since at least 2015 . Ground 12 also applies as some rent lawfully due from the Respondent was (a) unpaid on the date on which the proceedings for possession were begun; and (b) was in arrears at the date of the service of the form AT6 relating to those proceedings.

40. The Tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the available information about the circumstances of the case.

41. Firstly, the Tribunal considered the terms of section 18 (4A) of the 1988 Act, which states:

(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.

42. The Tribunal noted that there was no suggestion that the Respondent's rent arrears were due to any delay or failure in the payment of relevant housing benefit or relevant universal credit.

43. With regard to the pre-action requirements, it was clear that the Applicants had notified the Respondent of her rent arrears on numerous occasions prior to making the application. The Tribunal did not consider, however, that the emails and text messages sent to her otherwise complied with the pre-action requirements set out in the [Rent Arrears Pre-Action Requirements](#)

[\(Coronavirus\) \(Scotland\) Regulations 2020](#). Little information was provided regarding the Respondent's rights in relation to proceedings for possession of a house or how she might access information and advice on financial support and debt management.

44. The Tribunal took into account the fact that the Respondent had accrued a significant level of rent arrears over a period of more than 10 years, which was having a financial impact on the Applicants, particularly given the recent change in their mortgage payments. The Tribunal also noted that the Applicants have a legal right to use and dispose of their property as they think fit within the constraints of the law.
45. The Respondent had been continuously in arrears since early in her tenancy. She had, however, reached a payment arrangement with the Applicants and had stuck to this for the past 18 months. It was clear that the sudden significant increase in her rent had made things very difficult for her, and she had tried to negotiate a compromise with the Applicants. The Tribunal has considerably sympathy with her situation. It accepts, however, that the new rent is much closer to the current market rent for the property. It is clear that the Respondent is unable to afford this in her present circumstances.
46. The Tribunal noted that the Respondent has been living in the property for more than 11 years and that it had been her family home. She has some health issues and given the nature of her previous occupation and her benefits situation, she finds it difficult to work. She would like to be able to remain in the property with her son, but he is no longer classed as her dependant given his age.
47. Having taken into account all of the above, the Tribunal gave particular weight to the fact that the Respondent had accrued a significant level of rent arrears over a period of more than 10 years. While the Respondent had stated that she wished to oppose the application it appeared to the Tribunal that in fact she seemed to have accepted that she would have to leave the property and would prefer to find more affordable and secure housing.
48. The Tribunal also gave weight to the fact that as things stand, the tenancy is not sustainable for the Respondent. She is living alone in a three bedroom house. Given her financial situation, were she to stay, her arrears will continue to increase due to the shortfall between her universal credit and the new rent. It would therefore be in her interests to find accommodation which is more affordable, secure and more suitable for her current needs. In order to secure social housing, she has been advised that she will need an eviction order.

49. The Tribunal therefore determined that it would be reasonable to grant an order for recovery of possession in favour of the Applicants.
50. Before deciding to grant the order, the Tribunal sought the parties' views on the possibility of delaying execution of the eviction order in terms of rule 16A of the 2017 rules, to give the Respondent more time to find suitable alternative accommodation.
51. Miss Scott said that the Applicants would not oppose such an extension, so long as they had a fixed date to work to.
52. The Respondent said that she would welcome some additional time to move out, given how long she had been living in the property, and to give her more time to find suitable alternative accommodation.
53. Having taken into account the parties' views, the Tribunal considered that it would be reasonable in all the circumstances to delay execution of the order for two months beyond the standard period until 27 May 2026.

Decision

The Tribunal grants an order in favour of the Applicants against the Respondent for recovery of possession of the property. The Tribunal delayed execution of the order until 27 May 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.

Sarah O'Neill

24 February 2026

Legal Member/Chair

Date