



**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 (“the 1988 Act”)**

**Chamber Ref: FTS/HPC/EV/25/3909**

**Re: Property at 1 Crowlin Road, Kyleakin, Isle of Skye, IV41 8PP (“the Property”)**

**Parties:**

**Communities Housing Trust, Suite 4, 2nd Floor, Moray House, 16-18 Bank Street, Inverness, IV1 1QY (“the Applicant”)**

**Mrs Jacqueline Szanajda, 1 Crowlin Road, Kyleakin, Isle of Skye, IV41 8PP (“the Respondent”)**

**Tribunal Members:**

**Craig Chisholm (Legal Member) and Mary Lyden (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 of the Property should be made.**

**Background**

1. By application dated 12<sup>th</sup> September 2025, the applicant sought an order in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (procedure) Regulations 2017 (“the procedure rules”).
2. The Applicant had produced the following documents with the Form E application: Copy Tenancy Agreement; Form AT6 in terms of section 19 of the 1988 Act dated 26<sup>th</sup> August 2025 with Certificate of Intimation dated 26<sup>th</sup> August 2025; and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with cover email dated 11<sup>th</sup> September 2025.
3. On 3<sup>rd</sup> November 2025 the application was accepted by the tribunal and referred for determination by the tribunal.

4. A Case Management Discussion (CMD) was set to take place on 20<sup>th</sup> March 2026, and appropriate intimation of that hearing was given to all parties.

### **The Case Management Discussion**

5. The CMD took place on 20<sup>th</sup> March 2026 *via* telephone conference call. The Applicant was represented by Ms Mackie. The Respondent was not personally present or represented at the CMD.
6. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
7. The tribunal asked various questions of the Applicant's representative with regards to the application.
8. The Applicant's representative confirmed the Applicant wished for the order for eviction to be made.

### **Findings in Fact**

9. The Applicant is the registered owner of the Property.
10. The Applicant and the Respondent are respectively the landlord and tenant who entered into a Statutory Assured Tenancy Agreement in terms of the Housing (Scotland) Act 1988 for the Property commencing 19<sup>th</sup> October 2015.
11. The initial agreed monthly rental was £550 per month. Rent was increased on 1<sup>st</sup> April 2021 to £561 per month; on 1<sup>st</sup> April 2022 to £582.32; on 7 July 2023 to £599.79; on 7<sup>th</sup> July 2024 to £647.77; and on 7<sup>th</sup> July 2025 to £679.51.
12. Arrears have accrued since around December 2024 and at the date of the lodging of the application arrears amounted to £5,893.41. The amount of arrears at the date of the CMD was £9,253.
13. The Applicant served the Form AT6 on the Respondent on 26<sup>th</sup> August 2025. was personally served on the Respondent using Sheriff Officers. Ground 11 as set out in Schedule 5 of the 1988 Act was cited as the ground for possession.
14. The Respondent has persistently delayed paying rent which is lawfully due. At the date of service of the AT6 and the date of making the application, rent lawfully due was unpaid.
15. The application to the Tribunal was made after the expiry of the notice period contained in the Form AT6.

16. Appropriate notice was given to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

## Reason for Decision

17. The Tribunal was satisfied that the Applicant and Respondent had entered into a statutory assured tenancy in respect of the Property. The Tribunal was satisfied a valid form AT6 had been served on the Respondent providing her with notice that eviction proceedings would be raised relying on ground 11.
18. The Tribunal considered it reasonable to make an Order for possession of the Property in terms of Section 18 of the 1988 Act.
19. In terms of section 18 of the 1988 Act, the First-tier Tribunal may issue an eviction order against the tenant under an assured tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 5 applies. In the AT6 the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 11. Ground 11 is that the tenant has persistently delayed paying rent which is lawfully due.
20. The Tribunal considered the submissions made in the application and determined that grounds 11 had been established. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

## Decision

21. The ground for eviction based on ground 11 was accordingly established.
22. The tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson*, [1942 2 All ER 653 at 655, where Lord Green MR said:

*“In considering reasonableness... it is, on my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusions given such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account.”*

23. in determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.

24. In this case, the tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the Applicant in this application for the above noted reasoning.

### **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.**

**Craig Chisholm**

**20<sup>th</sup> March 2026**

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**Legal Member/Chair**

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**Date**