



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 Housing (Scotland) Act 1988 (“the 1988 Act”)

Chamber Ref: FTS/HPC/EV/25/3681

Property at 22, Saughton Mains Place, Saughton, Edinburgh, EH11 3PX (“the Property”)

Parties:

Eaglebay Limited, 2, Clayhills Grove, Dundee, DD2 1NF (“the Applicant”)

Ms Diane Little, 22, Saughton Mains Place, Saughton, Edinburgh, EH11 3PX (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession should be granted against the Respondent in favour of the Applicant. The Tribunal also ordered a delay in execution of the order until 9 July 2026 in terms of Rule 16A(d) of the Procedure Rules 2017.

Background

1. The Applicant seeks an order for possession in terms of Section 18 of the 1988 Act. A tenancy agreement, AT6 notice, Section 11 Notice, rent statement, and pre action correspondence were lodged with the application. The application specifies grounds 11 and 12 of schedule 5 to the 1988 Act.
2. A copy of the application was served on the Respondent by Sheriff Officer, and parties were notified that a case management discussion (“CMD”) would take place on 14 May 2026 at 10am by telephone conference call and that they were required to participate. Prior to the CMD the Respondent’s representative lodged written submissions which contained information about her circumstances and indicated that she did not oppose the application but was

seeking a delay in enforcement of the order to give her time to find alternative accommodation. The Applicant responded to this submission, stating that any delay was opposed due to the high arrears of rent. An updated rent statement was attached to the response.

3. The CMD took place on 14 May 2026. The Applicant was represented by Mr Brown. The Respondent was represented by Ms Bennett.

Summary of discussion at the Case Management Discussion

4. Ms Bennett told the Tribunal that the Respondent accepts that the arrears of rent exceed £15000. She does not oppose the eviction but seeks a delay in enforcement of the order by an additional month to allow time to find somewhere else to live due to her eldest son's mental health issues. In response to questions from the Tribunal Ms Bennett said that the Respondent has three adult sons. One is working, one is at college and her eldest is not working and is not engaging with the DWP so does not receive any benefits. The Respondent has other debts and is unable to meet the full monthly rent charge due to her circumstances. An appointment has been arranged with a debt advisor. Ms Bennett also told the Tribunal that the Respondent has approached the Local Authority and made a homeless application. She is concerned about having to go into temporary accommodation but accepts that there is no option. She cannot afford the private sector. She hopes to be housed with all three sons, although the son who is working may find his own accommodation. The Respondent has been in receipt of universal credit in the past but is not currently entitled to any benefits.
5. Mr Brown told the Tribunal that the arrears started in 2021. The application to the Tribunal was submitted in August 2025, so the Respondent has had plenty of time to find alternative accommodation. The full rent charge has not been paid for a year, and the arrears are substantial and increasing. The Respondent has generally not engaged with him although she did send an email about her circumstances. Mr Brown advised that the Applicant is a limited company, but the sole director is elderly and no longer working. He is in receipt of pension income only and has a mortgage to pay for the property. He hopes to re-let it to a tenant who will pay full rent to generate income.

Findings in Fact

6. The Applicant is the owner and landlord of the property.
7. The Respondent is the tenant of the property.
8. The Respondent is due to pay rent at the rate of £1000 per month.
9. The Respondent owes the sum of £15548.63 in unpaid rent to the Applicant.

10. The Applicant served an AT6 Notice on the Respondent on 18 July 2025.
11. The Applicant has issued information to the Respondent in compliance with the Rent Arrears Pre action Protocol.
12. The Respondent resides at the property with three adult children, one of whom has mental health issues. She is in full time employment.
13. The Applicant's sole director is retired and relies on the rental income from the property to supplement his pension income.

Reasons for Decision

14. The application is based on grounds 11 and 12 of schedule 5 of the 1988 Act. The application was submitted with a copy of a tenancy agreement which refers to some of the grounds for possession contained within schedule 5, including grounds 11 and 12. The Applicant is therefore entitled to rely on Section 18(6) of the 1988 Act and a Notice to Quit is not required. An AT6 notice was submitted, with a Sheriff Officer Certificate of service which establishes that it was served on 21 July 2025. The AT6 Notice is in the prescribed format and specifies grounds 11 and 12 of schedule 5. It states that the earliest date that proceedings can be taken is 18 August 2025, giving the Respondent more than two weeks' notice, as required by Section 19(4) of the 1988 Act. A copy of a section 11 Notice has also been lodged, with evidence that it was sent by email to the Local Authority. The Tribunal is satisfied that the Applicant has complied with Sections 19 and 19A of the 1988 Act.
15. Section 18 of the 1988 Act (as amended by the Coronavirus (Recovery and Reform) (Scotland) Act 2022 states: -
 - (1) The First-tier Tribunal shall not make an order for possession of a house let on an assured tenancy except on one or more of the grounds set out in schedule 5 to the Act.
 - (4) If the First-tier Tribunal is satisfied that any of the grounds in Part i or Part ii of Schedule 5 to this Act is established, the Tribunal shall not make an order for possession unless the Tribunal considers it reasonable to do so.
 - (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 Scottish Ministers in regulations.
16. Ground 11 of Schedule 5 states, “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.”
17. Ground 12 states, “ 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, was in arrears at the date of service of the notice under that section relating to those proceedings.” Section (b) is not relevant as it relates to applications where the Tribunal has dispensed with service of an AT6.
18. The Applicant submitted a rent statement with the application and an updated statement prior to the CMD. Based on the rent statements and the information provided at the CMD, the Tribunal is satisfied that grounds 11 and 12 are established. The rent account has been in arrears since 2021. At the time of service of the AT6 notice the Respondent owed £8077, and this had increased to £15,548.63 by the date of the CMD.
19. The Tribunal proceeded to consider whether it would be reasonable to grant the order for possession and noted the following: -
- (a) The Applicant provided evidence that they have complied with the Rent Arrears Pre Action-Protocol.
- (b) The Respondent’s representative confirmed that the Respondent is not currently in receipt of benefits and is not entitled to any relevant benefits. She is in full time employment.
- (c) The rent arrears are substantial and are increasing. The monthly payments made by the Respondent do not meet the rent charge.
- (d) The Respondent does not oppose the application and has applied to the Local Authority for housing.
- (e) The Respondent resides at the property with three adult children. One is in employment, one is at college and one has mental health issues and is dependent on the Respondent because he does not claim benefits
20. Based on the information provided, and the fact that the application is not opposed, the Tribunal is satisfied that it would be reasonable to grant the order.
21. As the Applicant has complied with the requirements of the 1988 Act, and as the Tribunal is satisfied that it would be reasonable to grant the order, the Tribunal determines that an order for possession should be granted.

22. The Tribunal considered the request for a delay in execution of the order. The Respondent seeks a relatively short extension of time and the Tribunal notes that the request is due to her adult son's difficulties and the impact that the eviction will have on him. However, the Tribunal notes that very limited payments are being made to the rent account and that the arrears are substantial and increasing every month. Having regard to all the circumstances, a short delay seems appropriate. The Tribunal orders a delay in enforcement until 9 July 2026, which is an extension of approximately 2 weeks beyond the usual timescales.

Decision

23. The Tribunal determines that an order for possession of the property should be granted against the Respondent.

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.

Josephine Bonnar, Legal Member

14 May 2026