



**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/25/4125

**Re: Property at 12 Green Court, Locharbriggs, Dumfries, DG1 1QW ("the
Property")**

Parties:

**Mr Ian Corsan and Mrs Tammy Corsan, Ar Tigh, Quarry Road, Locharbriggs,
Dumfries, DG1 1sQF ("the Applicant")**

**Mr Iain Cameron Wilson and Miss Linzie Ann Gillespie, 12 Green Court,
Locharbriggs, Dumfries, DG1 1QW ("the Respondents")**

Tribunal Members:

Gillian Buchanan (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondents)

At the Case Management Discussion ("CMD"), which took place by telephone conference on 7 May 2026, the Applicants were not in attendance but were represented by Ms Hannah Turnbull of Colledge & Shields LLP. The Respondents were neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that:-**

Background

The Tribunal noted the following background:-

- i. The Applicants are the heritable proprietors of the Property.
- ii. The Applicants previously leased the Property to the Respondents in terms of a Short Assured Tenancy Agreement ("the SAT") that commenced on 25 March 2015.
- iii. The initial term of the SAT was for the period to 25 September 2015 and the tenancy has continued thereafter on a month to month basis all as prescribed therein.

- iv. The rent payable in terms of the SAT was initially agreed to be £475 per calendar month.
- v. On 13 August 2025, the Applicants' agent served on the Respondents by Sheriff Officers a Notice under Section 18 of the Housing (Scotland) Act 1988 requiring the Respondents remove from the Property by 29 August 2025 on the basis of Grounds 11 and 12 of Schedule 5 of the 1988 Act. Rent arrears stated to be due were £4,890.
- vi. The Applicants' agent served on Dumfries & Galloway Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms Turnbull made the following oral representations in response to questions from the Tribunal:-

- i. On 4 March 2026, the First Respondent received a custodial sentence of 40 days. A neighbour of the Property advised the Second Applicant that the First Respondent had not stayed at the Property since being released from prison and is now believed to be living in Glasgow.
- ii. The Second Respondent and her children previously removed from the Property, is aware of the possession proceedings and has no difficulty with an order being granted.
- iii. The current rent arrears "exceed" £5733.66.
- iv. The First Respondent had been getting some assistance from the local authority and a sum of £2722 had been paid on or around 9 January 2026 as confirmed by an email from Eilidh Jardine, Welfare and Housing Options Officer.
- v. The First Respondent had previously been living in the Property alone.
- vi. He is not known to be working and has no known disabilities.
- vii. In response to questions from the Tribunal Ms Turnbull was not aware when the rent increased to £500 per month and no pre action protocol letters had been served.

The Tribunal adjourned to allow Miss Turnbull to take instructions on the precise arrears due, to ascertain when the rent was increased and to consider further whether pre action protocol letters had been served.

Following the adjournment Miss Turnbull referred to a Rent Statement now produced showing the arrears due to be £5735.66. She intimated that the Applicants could not be sure but the rent was likely to have been increased in January 2022 to £500 per month and she again confirmed no pre action protocol letters had been served.

Findings in Fact

The Tribunal made the following findings in fact:-

- i. The Applicants are the heritable proprietors of the Property.
- ii. The Applicants previously leased the Property to the Respondents in terms of the SAT that commenced on 25 March 2015.
- iii. The initial term of the SAT was for the period to 25 September 2015 and the tenancy has continued thereafter on a month to month basis all as prescribed therein.
- iv. The rent payable in terms of the SAT was initially agreed to be £475 per calendar month.
- v. The rent increased to £500 per month in around January 2022.
- vi. On 13 August 2025, the Applicants' agent served on the Respondents by Sheriff Officers a Notice under Section 18 of the Housing (Scotland) Act 1988 requiring

- the Respondents remove from the Property by 29 August 2025 on the basis of Grounds 11 and 12 of Schedule 5 of the 1988 Act. Rent arrears stated to be due were £4,890.
- vii. The Applicants' agent served on Dumfries & Galloway Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
 - viii. On 4 March 2026, the First Respondent received a custodial sentence of 40 days.
 - ix. The First Respondent has not stayed at the Property since being released from prison and is now believed to be living in Glasgow.
 - x. The Second Respondent and her children previously removed from the Property, is aware of the possession proceedings and has no difficulty with an order being granted.
 - xi. The current rent arrears are £5735.66.
 - xii. The First Respondent had previously been living in the Property alone.
 - xiii. He is not known to be working and has no known disabilities.
 - xiv. No pre action protocol letters have been served.

Reasons for Decision

The Respondents did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicants within the application papers and orally on their behalf at the CMD was not challenged and was accepted by the Tribunal.

The application proceeds upon Section 18 of the 1988 Act and Grounds 11 and 12 of Schedule 5 thereof.

Section 18 states:-

"18.— Orders for possession.

(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 this Act.

(2) The following provisions of this section have effect, subject to section 19 below, in relation to proceedings for the recovery of possession of a house let on an assured tenancy.

(4) If the First-tier Tribunal is satisfied that any of the grounds in Part I or 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 the Scottish Ministers in regulations.

(5) Part III of Schedule 5 to this Act shall have effect for supplementing Ground 9 in that Schedule and Part IV of that Schedule shall have effect in relation to notices given as mentioned in Grounds 1 to 5 of that Schedule.

(6) The First-tier Tribunal shall not make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, unless—

(a) the ground for possession is Ground 2 in Part I of Schedule 5 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9, Ground 10, Ground 15 or Ground 17; and

(b) the terms of the tenancy make provision for it to be brought to an end on the ground in question.

(6A) Nothing in subsection (6) above affects the First-tier Tribunal's power to make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, where the ground for possession is Ground 15 in Part II of Schedule 5 to this Act.

(7) Subject to the preceding provisions of this section, the First-tier Tribunal may make an order for possession of a house on grounds relating to a contractual tenancy which has been terminated; and where an order is made in such circumstances, any statutory assured tenancy which has arisen on that termination shall, without any notice, end on the day on which the order takes effect.

(8) In subsection (4A) above—

(a) "relevant housing benefit" means—

(i) any rent allowance or rent rebate to which the tenant was entitled in respect of the rent under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971); or

(ii) any payment on account of any such entitlement awarded under Regulation 91 of those Regulations;

(aa) "relevant universal credit" means universal credit to which the tenant was entitled which includes an amount under section 11 of the Welfare Reform Act 2012 in respect of the rent;

(b) references to delay or failure in the payment of relevant housing benefit or relevant universal credit do not include such delay or failure so far as referable to any act or omission of the tenant.

(9) Regulations under subsection (4A)(b) may make provision about—

(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),

(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

(c) such other matters as the Scottish Ministers consider appropriate.

(10) Regulations under subsection (4A)(b) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10))."

Schedule 5 Grounds 11 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."

Schedule 5 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 the service of the notice under that section relating to those proceedings."

The Notice to Quit served on 13 August 2025 is not valid as the period of notice stated therein is not sufficient. The tenancy is not therefore a statutory assured tenancy.

Service of the Notice under Section 18 of the Housing (Scotland) Act 1988 requiring the Respondents remove from the Property by 29 August 2025 is valid having regard to section 18(6) of the 1988 Act and Clause TEN of the SAT which narrates that the tenancy may be terminated on (amongst other grounds) Grounds 11 and 12 of Schedule 5 of the 1988 Act.

The Respondents are in substantial rent arrears. The Respondents have persistently delayed in paying rent.

No pre action protocol letters have been issued. This is through no fault of the Applicants but rather the fault of their agent. The Tribunal noted the Second Respondent and her children to have already removed from the Property. The Tribunal also noted that the First Respondent is not now living there either. The First Respondent has had advice and support from Eilidh Jardine, Welfare and Housing Options Officer at Dumfries & Galloway Council as a result of which the rent arrears have been reduced. The Tribunal therefore exercised its discretion and determined that, notwithstanding the absence of pre action protocol letters, it is reasonable to grant an eviction order.

The Tribunal therefore granted an eviction order against the Respondents in favour of the Applicants.

Decision

The Tribunal grants an eviction order against the Respondents in favour of the Applicants under Section 18 and Grounds 11 and 12 of Schedule 5 of the 1988 Act.

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.

Gillian Buchanan

Legal Member/Chair

7 May 2026
Date