



Amended 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 Act”)

Chamber Ref: FTS/HPC/EV/25/4574

Re: Property at 140D Tweedsmuir Road, Letham, Perth, PH1 2HJ (“the Property”)

Parties:

Mr Peter Milne, Mrs Carol Milne, 12 Poplar Crescent, Perth, PH1 1HR (“the Applicants”)

Miss Jade Weightman, 140D Tweedsmuir Road, Letham, Perth, PH1 2HJ (“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 Applicants are seeking an order for possession of the Property, under ground 12 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicants lodged a copy of a short assured tenancy that commenced on 11th December 2015 until 12th June 2016 and monthly thereafter, together with copy Form AT6, notice to quit and section 33 notice with evidence of service, section 11 notice with evidence of service, rent statement and correspondence. The application was originally made under Rule 66, however, the notice to quit was deemed invalid, and the application was amended to Rule 65.
2. The application and notification of a forthcoming Case Management Discussion was made by Sheriff Officer upon the Respondent on 21st May 2026.

The Case Management Discussion

3. A Case Management Discussion ("CMD") took place by telephone conference on 18th June 2026. The Applicants were in attendance. The start of the CMD was delayed to allow the Respondent to join the call. The Respondent did not join the call.
4. 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.
5. The Tribunal raised a preliminary issue in that service of the Form AT6 had originally been made by Recorded Delivery on 22nd May 2025. Thereafter, the mail had been returned as uncollected to the Applicants. They then served the Form AT6 by ordinary post on 20th June 2025. The Applicants explained that they were unsure what to do when the Recorded Delivery had failed and considered their only option was to use ordinary post. The Tribunal decided to reserve judgement on this issue and hear submissions in relation to the ground of possession and reasonableness.
6. The Applicants said the Respondent is in receipt of Universal Credit. The rent was £460 for ten years. The rent has been increased twice, but the Respondent has failed to notify Universal Credit, and payment of £460 per month has continued, leading to a shortfall. At the time of making the application, the rent statement showed arrears to September 2025 in the sum of £11185. The Applicants said the Respondent stopped paying rent completely in February 2026, and the arrears are now £15,300. The Applicants have contacted DWP in respect of the rent shortfall with no success. The Applicants said the last contact with the Respondent was in March 2026, when the Respondent sent a message asking the Applicants to issue her with an eviction notice as she wished to leave the Property.
7. Responding to questions from the Tribunal, the Applicants said they have issued correspondence signposting the Respondent to sources of advice in the past. This is the only property let by the Applicants.
8. Responding to questions from the Tribunal, the Applicants said the Respondent has two children, only one of whom lives with her at the three-bedroomed property. The Applicants are not aware of any medical or social issues in respect of the Respondent or the child who resides with her. The Applicants are aware that the Respondent was in part-time employment some months ago. The Applicants are aware that the Respondent was on the local authority housing list some years ago.

Findings in Fact and Law

9.

- (i) Parties entered into a short assured tenancy commencing on 11th December 2015 until 12th June 2016 and monthly thereafter.
- (ii) Form AT6 was sent to the Respondent using Recorded Delivery. The Respondent did not collect the Recorded Delivery mail.
- (iii) Form AT6 was sent to the Respondent by ordinary post.
- (iv) It is reasonable to dispense with the requirement for a Form AT6.
- (v) The Property continued to be let on an assured tenancy that was not a statutory assured tenancy.
- (vi) Rent lawfully due from the Respondent was unpaid on the date on which proceedings for possession were begun.
- (vii) The terms of the tenancy agreement make provision for it to be brought to an end under ground 12.
- (viii) It is reasonable to grant an order for possession.

Reasons for Decision

- 10. The Applicants attempted to serve the Form AT6 in accordance with section 54 of the Act, by sending it by Recorded Delivery. However, it was apparent that the Respondent had not received the Form AT6 as the Recorded Delivery mail was not collected. The Applicants then sent the Form AT6 by ordinary post. The Tribunal considered it likely that the Respondent received the Form AT6, however, it could not be certain that this was the case in the absence of the Respondent or any evidence that the Form AT6 had been received. Ordinary post is not an acceptable method of service in terms of section 54 of the Act.
- 11. The Tribunal considered, in all the circumstances, that it was reasonable, in terms of section 19(1)(b) of the Act to dispense with the requirement for a Form AT6. The arrears are significant. The Respondent cannot fail to be aware of the arrears, having been previously notified repeatedly of the arrears and having taken a conscious decision from February 2026 not to pay any rent. The Respondent has been served with the case papers and is aware of the application. In all the circumstances, it is reasonable to dispense with the requirement for a Form AT6.
- 12. The Tribunal was satisfied that section 18(6) of the 1988 Act applies, as the terms of the tenancy agreement make provision for the tenancy to be brought

to an end under ground 12, notwithstanding that it continues to be a contractual tenancy, as the notice to quit served was invalid.

13. 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. The Tribunal was satisfied that ground 12 was met in respect of subsection (1)(a) and that subsection (1)(b) applies.
14. 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.
15. 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 Applicants had complied with the pre-action protocol.
16. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
17. The Respondent has never paid the increased rent, failing for some reason to notify the DWP of the increased rent. The Respondent has not paid any rent since January 2026. 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 Applicants on the Respondent's circumstances. The Tribunal noted there is one child in the Property. The Tribunal was unable to assess the likely effect of an order for possession upon the Respondent or the child 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 Applicants. 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.
18. The Applicants are suffering financially and personally as a result of the Respondent's failure to pay the rent and address the arrears. This is likely to continue if no order is granted.
19. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicants. 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

20. An order for possession in respect of the Property is granted. The order is not to be executed prior to 12 noon on 20th July 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.

H. Forbes

Legal Member/Chair

24th June 2026
Date