



**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”) and Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/EV/25/3940**

**Re: Property at 8 Airds Avenue, Dumfries, DG1 4EN (“the Property”)**

**Parties:**

**Margaret Dean, 1 Maryfield Terregles, Dumfries, DG2 9TH (“the Applicant”) per her agents, Messrs. Bannatyne Kirkwood France & Co., 16, Royal Exchange Square, Glasgow, G1 3AG (“the Applicant’s Agents”)**

**Marc Scott, 8 Airds Avenue, Dumfries, DG1 4EN (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that, the statutory procedure having been carried out and the Grounds established, it is reasonable to grant the Order sought and so the Tribunal granted the Order.**

**Background**

1. By application received on 15 September 2025 (“the Application”), the Applicants’ Agents applied to the Tribunal for an Order for eviction and possession of the Property based on Section 18 of the Act, in terms of Ground 11 of Schedule 5 of the Housing (Scotland) Act 1988, the tenant has persistently delayed paying rent which has become lawfully due, and, Ground 12 of Schedule 5 of the Housing (Scotland) Act 1988, some rent lawfully due was unpaid on the date on which proceedings for recovery were begun and the tenant was in arrears at the date of the service of the Notice of Proceedings.
2. The Application comprised the following:
  - i) copy tenancy agreement between the Applicant as landlord and the Respondent and Sarah Rogerson as tenant with an entry date of 12 July 2017;
  - ii) copy AT6/Section 19 Notice dated 15 August 2025 with proof of service;
  - iii) rent statement showing rent of £3,050.00 due and owing at August 2025 and the last rental payment made on 28 March 2025;
  - iv) copy rent increase notices;
  - v) copy pre-action requirement letters sent to the Respondent and
  - vi) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Dumfries and Galloway Council being the relevant local authority.
3. The Application explained that Sarah Rogerson had vacated the Property and the tenancy in September 2024 and so the Respondent is the sole tenant.
4. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (“CMD”) was fixed for 24 April 2026 at 14.00 by telephone conference and intimated to the Parties, and, in particular, to the Respondent by Sheriff Officer on 10 March 2026.

## **CMD**

5. The CMD took place on 24 April 2026 at 14.00 by telephone. The Applicant was not present and was represented by Ms. Capaldi of the Applicant’s Agents. The Respondent was not present and was not represented. He did not submit written representations. The Tribunal was satisfied that the Respondent had

been made aware of the CMD and that he ought to attend and so proceeded in his absence.

6. Ms. Capaldi confirmed that an Order for eviction is sought. The Tribunal explained that it required to be satisfied that the correct statutory process had been carried out, that the Grounds were evidenced and that it is reasonable to grant the Order.
7. From the Application, the Tribunal noted that the correct statutory process had been carried out and that the rent statement submitted evidenced that the Grounds were established.
8. With regard to the Applicant, Mrs. Dean, Ms. Capaldi explained that Mrs. Dean is 75 years-old, in poor health and that she and her husband rely on the rental income to supplement their income. Ms. Capaldi explained further that there have been difficulties with the Respondent, Mr. Scott's, tenancy as his behaviour has caused concern for his neighbours, who are in the main are elderly, that he has refused access to the Applicant's contractors and that police have attended to force access to the Property. Ms. Capaldi stated that in addition to the arrears, which have now risen to £6,275.64, the stress of dealing with the other tenancy issues is having a detrimental effect on Mrs. Dean's health.
9. With regard to the Respondent, Mr. Scott, Ms. Capaldi stated that there has been minimal contact from him and that, as far as she is aware, he is not in employment and has no dependents. Ms. Capaldi stated that Mr. Scott had simply told Mrs. Dean that he cannot afford to pay the rent. Ms. Capaldi was not aware if Mr. Scott was in receipt of benefits.

#### **Rule 17 (4) of the Rules**

10. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussion .....including*

*making a decision*". The Tribunal took the view that it had sufficient information to make a decision.

### **Findings in Fact**

11. From the Application and the CMD, the Tribunal made the following findings in fact: -

- i) There is a tenancy of the Property in terms of the 1988 Act between the Parties commencing on 12 July 2017;
- ii) The correct statutory procedure has been carried out;
- iii) The Respondent has not paid rent since 28 March 2025;
- iv) The current rent arrears owed by the Respondent to the Applicant is in excess of £6,275.00;
- v) The Applicant is elderly, in poor health and relies on receipt of the rent to supplement her income;
- vi) The Respondent is not in employment and has no dependents.

### **Issue for the Tribunal**

12. The statutory procedure and Grounds being established and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness.

### **Decision and Reasons for Decision**

13. The Tribunal had regard to all the information before it and to its Findings in Fact.

14. The Tribunal then had regard to the circumstances of the Parties. The Tribunal must establish, consider and properly weigh the "whole of the circumstances in which the application is made" (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.

15. The Tribunal then looked to balance the rights and interests of both parties.

16. The Tribunal had regard to the fact that the Respondent has stopped paying rent without cause or reason to do so and has failed to pay rent in over a year. The Tribunal took into account the extent of the negative financial impact which the Respondent's actions have had on the Applicant, both in terms of income and health. Regardless of any other aspects of the Respondent's behaviour, the Tribunal took the view that the level of rent arrears and pattern of non-payment is not tenable for either Party.

17. With regard to alternative accommodation and from its own knowledge, the Tribunal had regard to the fact that, if evicted and made homeless, the Respondent, if he chooses to contact the local authority, would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance on homelessness.

18. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction order.

19. This decision is unanimous.

## **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.**

# Karen Moore

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Legal Member/Chair

24 April 2026

Date