



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

Chamber Ref: FTS/HPC/EV/25/5196

Re: Property at 40 Doon Walk, Craigshill, Livingston, EH54 5AD (“the Property”)

Parties:

I & R Estates, 15 Hamilton Way, East Whitburn, EH47 8RA (“the Applicant”)

Miss Tracey Shaw and Mrs Irene Playfair, 40 Doon Walk, Craigshill, Livingston, EH54 5AD (“the Respondents”)

Tribunal Members:

Karen Moore (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory process and the Ground for recovery of possession having been established, it is reasonable to grant the Order sought.

Background

1. By application received on 7 February 2025 (“the Application”), the Applicant applied to the Tribunal for an Order for eviction and possession of the Property based on Grounds 11 and 12 of Schedule 5 to the 1988 Act.
2. The Application comprised the following:
 - i) copy short assured tenancy agreement in respect of the Property between the Parties at a monthly rent of £550.00 and with an entry date of 2 September 2014;
 - ii) copy AT6 with proof of Sheriff Officer service;

- iii) copy rent statement showing arrears of £18,632.40 and the monthly rent of £750.00 underpaid by £375.00 since 30 December 2020;
 - iv) correspondence to the Respondents in respect of the pre-action protocol and proof of service by Sheriff Officer;
 - v) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to West Lothian Council being the relevant local authority.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (“CMD”) was fixed for 18 June 2026 at 14.00 by telephone conference and intimated to the Parties.
4. Prior to the CMD, the Applicant and the First-named Respondent, Ms, Shaw, submitted written representations in respect of the condition of the Property. The Applicant submitted that the rent arrears had risen to over £21,000.00.

CMD

5. The CMD took place on 18 June 2026 at 14.00 by telephone. The Applicant was represented by Ms. Haq, one of the Applicant’s partners and trustees. Both Respondents were present and unrepresented.
6. Ms Haq confirmed that an Order for eviction was sought.
7. Ms. Shaw accepted that there are rent arrears and accepted that she has not paid her share of the £750.00 monthly rent since 2020. Mrs. Playfair stated that the payments of £375.00 had been made by the DWP in respect of her half-share of the rent.
8. The Tribunal explained that it required to be satisfied that the correct statutory process had been carried out, that the Ground for the Application is evidenced and that it is reasonable to grant the Order. The Tribunal asked the Parties to provide information on their respective circumstances.

9. Ms. Haq stated that the Applicant has a few rental properties but cannot bear the running costs of this Property due to the level of unpaid rent. Ms. Haq stated that the Respondents simply refused to pay the full rent and so the Applicant had been unable to increase the rent to any extent. She pointed out that the Applicant had borne the cost of a new boiler.

10. Ms. Shaw agreed that the rent had not been paid and stated that the Property was not habitable. Ms. Shaw agreed that the boiler had been renewed and explained that this had followed mediation some years ago. She stated that she had had minor disagreements with Mr. Haq, who she believed to be the landlord. With regard to the occupants of the Property, Ms. Shaw stated that in addition to Mrs. Playfair and herself, her older daughter, her eight-year-old daughter and her granddaughter resided in the Property. With regard to seeking alternative accommodation, Ms. Shaw stated that she has been in contact with the local authority who advised her to make further contact when an eviction order had been granted. Ms. Shaw confirmed that the Respondents did not oppose the Application and stated that it would be better for all if they were rehoused as the Property was not habitable for their family.

Findings in Fact

11. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a short assured tenancy of the Property between the Parties;
 - ii) The correct statutory procedures have been carried out;
 - iii) The Respondents have been in rent arrears since December 2020;
 - iv) The Respondents do not oppose the Application;
 - v) The Respondent, Ms. Shaw, has an eight-year-old dependent child who resides with her at the Property.

Rule 17 (4) of the Rules

12. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussionincluding making a decision". The Tribunal took the view that it had sufficient

information to make a decision and so proceeded to determine the Application.

Issue for the Tribunal

13. The issue for the Tribunal was to determine whether or not to grant the Order sought. The Tribunal was satisfied that the Ground has been met, that the Respondents had been made aware of the consequences of their failure to pay rent and that they had been given advice in respect of state assistance. The Tribunal had no evidence that the rent arrears had accrued wholly or partly as a consequence of a delay or failure in the payment of a relevant benefit. Therefore, the statutory ground and procedure being established, 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 and so proceeded to determine the Application.

Decision and Reasons for Decision

14. 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 had regard to the facts that the Respondents have been in arrears since December 2020 and that the level arrears is now in excess of £21,000.00. The Tribunal noted that the Respondents do not oppose the Application, that they accept that there are rent arrears and have not given any reasons for their failure to pay the full rent. Whilst the Tribunal noted that the half of rent has been paid direct by the DWP in respect of Mrs. Playfair, the Tribunal had regard to the fact that the tenancy is joint and that both Respondents are jointly and severally liable for the full rent. The Tribunal’s view is that, given the level of arrears being combined with the length of time which it will take to clear the arrears, it is untenable for them to continue as tenants in the Property.

16. The Tribunal had regard to Ms. Shaw's position that Property is not habitable. The Tribunal took the view that, as no action or steps had been taken by the Respondents in this regard and as there was no supporting evidence that the condition of the Property might impact on the duty and obligation to pay rent, little weight should be given to this.
17. The Tribunal found that the Applicant is entitled to receive payment of rent and that this entitlement outweighs the Respondents' rights to remain in the Property.
18. With regard to those who reside with the Respondents and, in particular, Ms. Shaw's dependent child, the Tribunal was satisfied that, if evicted and made homeless, the Respondents and those who reside with them would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance to secure accommodation suitable to their needs.
19. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order.
20. 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.

K. Moore

18 June 2026
Date

