



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”)

Chamber Ref: FTS/HPC/EV/25/5050

Re: Property at Flat 3, 7 Mains Road, Dundee, DD3 7RH (“the Property”)

Parties:

Mr Mohammad Shikari, 24 Milton Street, Dundee, DD3 6QQ (“the Applicant”)

Mr Martin Connor, Flat 3, 7 Mains Road, Dundee, DD3 7RH (“the Respondent”)

Tribunal Members:

Fiona Stephen (Legal Member) and Angus Lamont (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 of the Property should be granted against the Respondent in favour of the Applicant.

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. A The application was conjoined with application no FTS/HPC/CV/25/5057 seeking an order for payment in respect of outstanding arrears.
2. The application was accepted by the Tribunal on 9 December 2025. A copy of the application was served on the Respondent by Sheriff Officer conform to execution of service dated 8 May 2026 and parties were notified that a Case Management Discussion (“CMD”) would take place on 10 June at 2pm by telephone conference call and that they were required to participate. The Respondent was required to submit any written representations in response to the application by 23 May 2026. No representations were lodged.

3. The Applicant's solicitor lodged an up to date rent statement prior to the CMD.
4. The CMD took place on 10 June 2026. The Applicant was represented by Mr Lawson of MML Law, Solicitors, Dundee. The Tribunal delayed the start of the CMD by a few minutes to give the Respondent an opportunity to appear. He did not do so.

The Case Management Discussion

5. The Tribunal asked various questions with regard to the application. The Tribunal noted that the tenancy agreement dated 1 July 2016 was originally between the parties Redwood Pubs Limited and the Respondent. The tenancy had commenced on 1 July 2016 and endured until 30 June 2017 and continued monthly thereafter if not terminated, terminating on no less than 2 months' notice. The Applicant had purchased the Property on 3 November 2023 as per the Title Sheet no ANG93512. The Tribunal asked the Applicant's representative how the Respondent had been notified of the change in ownership and payment details for the rent given that the rent arrears started to accrue on 1 December 2023. The Applicant's representative explained that he had spoken to the Applicant about this. The Applicant had spoken to the Respondent at the time about the change in ownership and new payment details.
6. The contractual tenancy had been terminated by service of a notice to quit on 11 August 2025 specifying the expiry date of 30 October 2025. A form AT6 setting out grounds 11 and 12 had been served on the Respondent on the same date.
7. The Tribunal noted that the arrears were substantial, standing at £9 300.00 as at 1 June 2026. No rent had been paid since 1 December 2023. The Tribunal asked why the Applicant had not taken action sooner. The Applicant's representative explained that the Applicant had instructed another firm and he understood there may have been an issue with a notice to quit and an expiry date which delayed matters.
8. The Applicant's solicitor was unaware of when the Applicant had last had contact with the Respondent. He advised that the Applicant lived in the property alone, is believed to be employed as a bar manager and is not in receipt of benefits. No children live with him and he has no disabilities such that adaptations would be required. The Applicant has sent letters to the Respondent regarding electrical work that is required at the flat but there has been no response and the Applicant has not been able to access the Property for that purpose as a result. The Property is a one bedroomed flat.
9. The Applicant's representative submitted that the current position was having a substantial impact on the Applicant. The Applicant had been in two minds about continuing with the payment action as he is unsure of the prospect of recovery of the rent arrears. His priority is to secure possession of the

property so that he can get in to undertake the electrical work and any other repairs that might be needed. If an order for eviction is granted it is his intention to re-let the property.

Findings in Fact

10. The Applicant is the owner and landlord of the property.
11. The Respondent is the tenant of the property.
12. The tenancy is an assured tenancy which commenced on 1 July 2016.
13. The contractual assured tenancy terminated on 30 October 2025.
14. The original parties to the lease were Redwood Pubs Limited and the Respondent.
15. The Applicant purchased the Property on 3 November 2023 and was in right of the landlord's interest in the tenancy from that date.
16. The monthly rent due in terms of the tenancy is £300.
17. A valid Notice to Quit and AT6 (notice of proceedings) were served on the Respondent on 11 August 2025.
18. The AT6 specified that the Applicant intended to raise proceedings for eviction relying on grounds 11 and 12 of Schedule 5 of the 1988 Act.
19. The current application was lodged with the Tribunal on 24 November 2025.
20. Rent arrears at the date the application was submitted were £6 300.00.
21. Rent arrears as at the date of the CMD amounted to £9 300.00.
22. The Respondent has failed to make any payments of rent since 1 December 2023.
23. The Applicant issued information to the Respondent in compliance with the Rent Arrears Pre-action Protocol on 3 April 2025.
24. The Respondent has failed to respond to the Applicant.
25. The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003.
26. The Respondent resides in the Property alone and is in employment.

27. The Applicant has been unable to gain access to the Property for necessary electrical work despite making a request to the Respondent.
28. The Respondent's failure to pay rent is having a substantial financial impact on the Applicant.
29. It is the Applicant's intention to re-let the Property should be gain vacant possession of it.

Reasons for Decision

30. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the CMD without the need for a hearing all in terms of Rules 17 and 18 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the procedure rules").
31. The Tribunal was satisfied as to the commencement and duration of the tenancy. The contractual tenancy ended on 30 October 2025.
32. The Tribunal was satisfied that the form AT6 which had been produced complied with the requirements of section 19 of the 1988 Act.
33. Ground 11 of Schedule 5 of the 1988 Act states that it is a ground of possession -

"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."

34. Ground 12 of Schedule 5 of the 1988 Act states that it is a ground of possession 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, 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.

35. Section 18 of the 1988 Act (as amended by the Coronavirus (Recovery and Reform) (Scotland) Act 2022 further 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 this 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.”

36. The Tribunal determined that grounds 11 and 12 were established in respect of the level and duration of rent arrears.

37. The Tribunal proceeded to consider whether it would be reasonable to grant the order for possession and took into account 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. He is in employment.

(c) The rent arrears are substantial and are increasing. The Respondent is paying nothing towards the current arrears or paying rent as it falls due.

(d) The Respondent has not opposed the application and has taken no part in the proceedings.

(e) The Respondent resides at the property on his own.

(f) The Respondent's failure to pay rent is having a substantial financial impact on the Applicant.

(g) The Respondent has not permitted access to the Property for necessary electrical work.

(h) The Applicant intends to re-let the property once he has vacant possession and has carried out any necessary repairs.

38. 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.

39. 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

Decision

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.

**Fiona Stephen
Legal Member/Chair**

**10 June 2026
Date**