



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 (1) of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/25/5237

Re: Property at 1 Alclutha Avenue, Dumbarton, G82 2NY (“the Property”)

Parties:

Mr Ian Burns, Mrs Lina Burns, 26 Kingswood Road, Bishopton, PA7 5LQ (“the Applicant”)

Mr Stephen Mulholland, Mrs Mary Mulholland, 1 Alclutha Avenue, Dumbarton, G82 2NY (“the Respondent”)

Tribunal Members:

Hilary Macandrew (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be decided without a hearing and issued an Eviction Order against the Respondent.

1) Background

- 1.1 This is an Eviction Order application and is made under ground 12 of section 18 (1) of the Housing (Scotland) Act 1988.
- 1.2 The application to the Tribunal was made by Form E and submitted on 4 December 2025. It was accepted for determination by the Tribunal on 28 January 2026.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 22nd May 2026.

2) Discussions at CMD

- 2.1 The CMD took place by tele conference on 23 June 2026. The Respondent did not take part.
- 2.2 The parties entered into a Short Assured Tenancy which commenced on 11 August 2017.
- 2.3 The rent in terms of the lease was initially £450 per month and subsequently increased to £550 per month at the time the Notice to Quit was served.
- 2.4 The Notice to Quit was hand delivered to the Respondent 20 November 2025 giving a notice period until 4 December 2025.
- 2.5 As at the date the Notice to Quit was served the rent arrears were £1,879. The amount of arrears outstanding at the date of the hearing were £4,550.79.
- 2.6 The Tribunal was satisfied that more than three consecutive months of rent remains unpaid by the Respondent. This establishes ground 12 has been met. On the basis of evidence given by the Applicant the rent has been consistently in arrears since the outset. Rent was paid in the main part by housing benefit with a top up from the Respondent until August 2025 when the last full payment of housing benefit was made of £437.28. One small final payment of housing benefit of £62.47 was made on 21 November 2025. The most recent payment towards rent by the Respondent was a payment of £550 on 20 April 2026 but prior to that the last payment by the Respondent was £350 on 22 October 2025.
- 2.7 The Applicant confirmed in evidence given at the Tribunal by Mrs Burns that the record of rental payments which had been provided as a production to the Tribunal had been extracted by her directly from bank statements. She had been in charge of running the tenancy and had managed the tenancy together with other tenancies for nine years.
- 2.8 The Respondent did not oppose the application. He did not take part in the case management hearing.
- 2.9 The Applicant's position is that they own a number of rental properties. There is no secured borrowing over the property however they still have to meet the capital costs and at the moment there is an invoice to be paid in relation to capital expenditure for the property of over £5737.41. There is no factoring fee. The property is one of eight properties in two blocks of four and there are from time to time maintenance and repair costs which are shared between all eight properties. Some of the properties are council owned and some of the properties are privately owned. The absence of payment of rent is having a detrimental effect on the Applicant's financial position.
- 2.10 In the evidence of the Applicant there have been no ancillary tenancy issues.
- 2.11 As far as the Respondent is concerned, the Tribunal had sight of an email which had been sent to the Tribunal on 13 June 2026. The email was from Mrs Mary Mulholland a Respondent who stated *inter alia* she would gladly vacate the property. The Applicant understood from the local authority that they were

willing to offer assistance to the Respondent in securing accommodation. The Respondent are a married couple. One of them is disabled. The other is in receipt of a pension. The Applicant's evidence was that there are no issues in relation to unpaid benefits or any claim for arrears of benefits. The Applicant's evidence was that the rent has always been in arrears but particularly so since August 2025 when the housing benefit was terminated. Other than "random" payments the arrears have continued to increase. The Applicant has not carried out regular home visits. They have carried out visits for repairs and in particular a visit had been carried out in relation to a window and radiator problem in early 2026. In Mrs Burns evidence she had never personally visited the property in nine years. Her husband Mr Burns had visited to carry out the repairs. There are no dependents living at the property. The Respondents have otherwise than non-payment of rent conducted the tenancy without issue.

- 2.12 The Respondent has failed to make consistent payment of rent resulting in an ongoing increase in arrears. Mrs Mulholland has indicated the Respondent is willing to vacate the tenancy.
- 2.13 Rule 17 of the First-Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 provides that the Tribunal may do anything at a CMB which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a hearing.

3) Findings in Fact and Law

- 3.1 The Applicant and the Respondent entered into a Short Assured Tenancy Agreement in respect of the property which commenced on 11 August 2017.
- 3.2 The monthly rent due under the Tenancy Agreement was initially £450 per month increasing to £550.
- 3.3 The rent arrears due as at the date of the Notice to Quit was £1,879.
- 3.4 The rent arrears due as at the date of the hearing is £4,550.79.
- 3.5 The Applicant complied with the pre-action requirements
- 3.6 Ground 12 of section 18 (1) of the Housing (Scotland) Act 1988 has been established.
- 3.7 It is reasonable to grant an order for eviction

4) Issue For The Tribunal

- 4.1 The issue for the Tribunal is to determine whether or not to grant the order sought.

4.2 The ground on which the Application proceeds is ground 12 which states:

“(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (2)....(3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if – (a) for three or more consecutive months the tenant has been in arrears of rent, and (b) the Tribunal is satisfied that it is reasonable on account of the fact to issue an eviction order. (4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider – (a) whether the tenant’s being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and (b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.”

4.3 The Tribunal was satisfied that the ground had been met and that the Respondent had been made aware of the consequences of their failure to pay rent.

4.4 Therefore, the statutory ground and procedure being established, the issue for the Tribunal was to determine if it is reasonable to grant the order.

5) Decision and Reasons for Decision

5.1 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah 1943 SC 245* whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.

5.2 The Tribunal had regard to the fact that the Respondent had been in arrears since August 2025. The Tribunal’s view is that the level of arrears being £4,550.79 combined with the length of time which arrears have existed leads to it being untenable for the Respondent to continue as a tenant in the Property. The Tribunal found that the Applicant is entitled to receive payment of rent and that this entitlement outweighs the Respondent’s right to remain in the Property. Accordingly, the Tribunal was satisfied that it is reasonable to issue an Eviction Order.

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 Macandrew

23rd June 2026

Legal Member/Chair

Date