



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/25/5255

Re: Property at 21 Ormiston Crescent West, Tranent, East Lothian, EH33 1HS (“the Property”)

Parties:

Ms Veronique Wolff and Ms Stephanie Wolff as Executors of Therese Wolff (“the Applicant”)

Mr Brian Renton, 21 Ormiston Crescent West, Tranent, East Lothian, EH33 1HS (“the Respondent”)

Tribunal Members:

Hilary Macandrew (Legal Member) and Elaine Munroe (Ordinary Member)

Decision

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 section 18 (1) of the Housing (Scotland) Act 1988.
- 1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 1 December 2025.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 28 April 2026.

2) The Case Management Discussion

- 2.1 The CMD took place by tele conference on 1 June 2026 at 10am. The Applicants were represented by Mr Sloan of Messrs D J Alexander, the property factors. The Applicants themselves did not take part. The Respondent did not take part. He did not make a response to the application.
- 2.2 Mr Sloan confirmed that the property is 21 Ormiston Crescent West, Tranent, East Lothian, EH33 1HS. The Applicants are Ms Veronique Wolff and Ms Stephanie Wolff, the Executors of Therese Wolff deceased. The late Therese Wolff was the heritable proprietor of the subjects and the registered landlord. The Respondent is Brian Renton who is the tenant.
- 2.3 Mr Sloan confirmed that the parties entered into a Short Assured Tenancy which commenced on 8 September 2017.
- 2.4 Mr Sloan confirmed that an order for eviction was sought. The basis of the application is in terms of ground 12 of the Housing (Scotland) Act 1988. The arrears have been in excess of 3 months. The Applicants had lodged a rent statement and current rent statement which were before the Tribunal.
- 2.5 Mr Sloan confirmed that as at the date the Notice to Leave was served £4948.52 was outstanding which increased to £6796.52 in March 2026. The amount of arrears outstanding at the date of the hearing is £2082.35. A payment from Housing Benefit was applied towards the outstanding rent on 30 March 2026 of £4714.17 which reduced the arrears. There is no current application pending for arrears of Housing Benefit to be paid.
- 2.6 The statutory Notices had been served timeously.
- 2.7 The Tribunal was satisfied that more than three consecutive months of rent remains unpaid by the Respondent. This establishes ground 12. The Tribunal proceeded to consider the issue of reasonableness.
- 2.8 The Respondent did not oppose the application. He did not take part in the case management hearing. Mr Sloan told the Tribunal that the Respondent does not communicate with the landlord's agents. They had contacted him since the Notice was served using two telephone numbers, one of which enabled a message to be left expressing the urgency of the situation and to make contact. A home visit was carried out on 6 May 2026. No access was gained. An independent property manager conducted the visit on 6 May 2026 by knocking on the door and there was no response.
- 2.9 The age of the tenant is unknown. Mr Sloan believed that he lived on his own with four dogs. The Tribunal was told that an earlier order for access had had to be granted by the Tribunal to enable an inspection to be carried out due to an infestation of rats. This had been treated externally but the contractors could not take access internally due to issues of safety.

- 2.10 There is evidence that a Section 11 Homeless Notice has been served. If an Eviction Order is being granted the local authority has a statutory duty to make alternative accommodation available. The rent arrears pre action requirements have been adequately adhered to.
- 2.11 The Respondent is paying the rent through Housing Benefit. Notwithstanding the payment of Housing Benefit arrears, the level of arrears remains high. It is not reasonable for the Applicants to continue to make the property available for any longer than necessary.
- 2.12 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 Applicants and the Respondent entered into a Private Residential Tenancy Agreement in respect of the property which commenced on 8 September 2017.
- 3.2 The monthly rent due under the Private Residential Tenancy is £616 per month.
- 3.3 The rent arrears due as at the date of the Notice to Leave was £4,948.52.
- 3.4 The rent arrears due as at the date of the hearing is £2,082.35.
- 3.5 The Respondent is currently paying rent through Housing Benefit.

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 2024. The Tribunal's view is that the level of arrears being £2,082.35 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 Applicants are 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.

Hilary MacAndrew
Legal Member/Chair

09.06.26
Date