



**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/25/5548

**Re: Property at 47 Marmion Road, Greenfaulds, Cumbernauld, G67 4AN (“the
Property”)**

Parties:

**Mr Robert Findlay, 1 West Balhalgardy Cottage, Inverurie, AB51 0HR (“the
Applicant”)**

**Ms Amanda Steen (Montgomery), 47 Marmion Road, Greenfaulds,
Cumbernauld, G67 4AN (“the Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of grounds 11 and 12 of schedule 5 of the 1988 Act are met in this case.

The Tribunal therefore made an eviction order under section 18 of the 1988 Act with execution of the order suspended for a period of two months.

Background

- 1 This is an application for an eviction order under Rule 65 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 18 of the 1988 Act. The Applicant relied upon grounds 11, 12 and 14 as the grounds for eviction, stating that the Respondent was in rent arrears and had allowed the condition of the property to deteriorate. The application was conjoined with an application for a payment order under reference FTS/HPC/CV/26/1012 as the applications both related to the same parties and the same tenancy.

- 2 The application was accepted and referred to a tribunal for determination. A case management discussion ("CMD") was scheduled to take place by teleconference on 30 June 2026 at 10am. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 28 May 2026. The notice invited her to make written representations in response to the application no later than 17 June 2026 and advised that the tribunal may do anything at a CMD that it may do at a hearing, including making a decision on the application.
- 3 On 17 June 2026 the Tribunal received a list of authorities from the Applicant's representative, McEwan Fraser Legal, and an updated rent statement.
- 4 On 29 June 2026 the Tribunal received an email from the Respondent with photographs of the property.

The CMD

- 5 The CMD took place on 30 June 2026 at 10am by teleconference. Ms Rosaleen Doyle of McEwan Fraser Legal represented the Applicant. The Respondent also joined the call.
- 6 The tribunal had the following documents before it:-
 - (i) The application form and supporting documents, including assured tenancy agreement between the parties, title sheet DMB15044, notice to quit and AT6 with proof of service, rent recovery letters with proof of service, emails between McEwan Fraser Legal and the Respondent, inspection report, rent statement, and section 11 notice with proof of service.
 - (ii) Excerpt from the online landlord register confirming the Applicant's landlord registration.
 - (iii) The Applicant's list of authorities and updated rent statement.
- 7 The tribunal heard submissions from the parties on the application. The following is a summary of the key elements of the submissions.
- 8 Ms Doyle submitted that the Applicant primarily relied upon grounds 11 and 12 as the grounds for eviction. The rent arrears now stood at £21,241. Ms Doyle noted that the Respondent had submitted a time to pay application which implied she accepted the arrears were due. The Applicant objected to the time to pay proposal of £50 per week and it would take just under 8 years to clear the debt which the Applicant considered unreasonable. The Applicant had reached out to the Respondent at an earlier stage but no payment proposal was forthcoming. Ms Doyle referred to the pre-action protocol letters lodged with the application, and the rent statement which showed a clear picture of the Respondent's payment history. The Respondent had reduced her rent payments to £455 per month, £245 short of the contractual rent, in 2020. She did not resume full

payments of rent until August 2024. She then missed the rent for July 2025 and in November 2025 stopped paying entirely. Ms Doyle submitted that given the level and extent of the arrears an eviction order was reasonable, notwithstanding the Respondent's personal circumstances. Ms Doyle advised that no recent inspection of the property had been carried out in support of ground 14. The Applicant relied upon the home inspection report submitted with the application.

- 9** In response to questions from the tribunal, Ms Doyle accepted that the Respondent had paid a reduced rent of £455 per month over a prolonged period. The Respondent had approached the Applicant at the end of 2019 and indicated she would struggle to pay the full rent. She was looking for a letter from the Applicant stating that he was ending the tenancy so that she could seek alternative accommodation from the local authority. The Applicant provided the letter. The Applicant was then contacted by a representative of the Citizens Advice Bureau on the Respondent's behalf. It was an unpleasant conversation. The representative berated the Applicant for seeking to evict the Respondent and confirmed the Respondent would pay the reduced rent of £455 per month. The Applicant was then impacted by the Covid-19 pandemic and subsequently a cancer diagnosis in 2024. He was dealing with several personal matters and let the issue with the rent slip. It was only after seeking legal advice that the situation became clearer and he sought to bring the rent account under control. The Applicant accepts that there was a significant period during which he took little action regarding the rent. Even if the Applicant could be said to have tacitly accepted £455 per month the rent arrears would still be significant.
- 10** Ms Doyle explained that the Applicant is currently living in rental accommodation, having previously served in the navy. He would like to purchase a property. The non-payment of rent has led him to miss mortgage payments for the property which has affected his credit rating. It is currently impossible for him to move out of his rental property. He is suffering from severe financial hardship, with his family assisting him. He will require to pay them back.
- 11** The Respondent explained that she had moved into the property with her partner at the time and her five children. Her partner had been abusive and had ultimately left the relationship. She confirmed that she had approached the Applicant at that time in 2019 and had offered to pay a reduced rent of £550 per month. She was not working, having left her job because of the pressures of her relationship. She resumed employment in 2022 and was received her part-time wage along with universal credit. She then decided to do a nursing degree and received a bursary which affected her universal credit payments. Her dad was helping her out with the rent but he became unwell in December 2025. She has now left her nursing course to sort out her benefits. She hopes her financial situation would improve. The council has suspended her housing application because of the rent arrears. She acknowledged that eviction is likely inevitable and the council have advised her to go down the homelessness route. She will be offered temporary housing at the very least. The Respondent spoke to the condition of the property which she stated had greatly improved. She has carried out a lot of work herself.
- 12** In response to questions from the tribunal, the Respondent confirmed that the council had advised her to put in a time to pay application. She confirmed that

she had applied for a discretionary housing payment but her application was refused. She had previously completed a housing needs assessment but this was some time ago. She suffers from mental health issues.

- 13** The tribunal adjourned the CMD to deliberate before resuming the discussion and confirming the outcome.

Findings in fact

- 14** The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of an assured tenancy agreement which commenced on 13 August 2017.
- 15** The Applicant has given the Respondent a notice to quit which terminated the contractual assured tenancy between the parties on 13 August 2025.
- 16** The Applicant has given the Respondent a Form AT6 under section 19 of the 1988 Act which includes grounds 11, 12 and 14.
- 17** The Applicant has given the local authority a section 11 notice as at the date of making this application to the Tribunal.
- 18** The contractual rent for the property is £700 per month.
- 19** The Respondent has failed to pay rent as agreed. The Respondent last paid rent on 31 October 2025.
- 20** The arrears are not known to be due to any failure or delay in the payment of a relevant housing benefit or relevant universal credit.
- 21** The Applicant has written to the Respondent with the information required under the rent arrears pre-action protocol on 25 June 2024, 16 July 2024, 1 August 2024 and 9 August 2024.
- 22** The Applicant resides in rental accommodation. The Applicant has no other rental properties. The Applicant wishes to purchase a home for himself and his family.
- 23** The arrears have caused the Applicant significant financial difficulties. The Applicant has a mortgage over the property. The Applicant has taken on a second job to meet the mortgage payments because of the lack of rent. The Applicant has had to borrow money from family members to meet the mortgage payments and tenancy costs.
- 24** The Respondent resides in the property with her five children.
- 25** The Respondent works part-time and receives universal credit. The Respondent has mental health issues.

- 26 The Respondent has been advised by the local authority that she will be rehoused in temporary accommodation if an eviction order is granted.
- 27 It is reasonable to make an eviction order, provided execution of the order is suspended for a period of two months to allow the Respondent time to secure suitable alternative accommodation with the local authority.

Findings in fact

- 28 The tribunal was satisfied it could reach a decision on the application at the CMD and it would not be contrary to the interests of the parties to do so. The Respondent had not sought to oppose the application, nor had she submitted anything to contradict the evidence provided by the Applicant.
- 29 Section 18(1) of the 1988 Act states "*the First-tier Tribunal shall not make an order for possession let on an assured tenancy except on one or more of the grounds set out in schedule 5 to this Act*".
- 30 In terms of section 18(6) of the 1988 Act, the tribunal cannot make an eviction order for possession of a contractual assured tenancy "*unless (a) the ground for possession is Ground 2 in Part I of Schedule 5 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9...Ground 10, Ground 15 or Ground 17; and (b) the terms of the tenancy make provision for it to be brought to an end on the ground in question.*" This means that where the tenancy agreement does not make provision for the tenancy to be brought to an end on the grounds relied upon, the landlord requires to terminate the contractual tenancy between the parties by service of a notice to quit.
- 31 The tenancy agreement between the parties does not make provision for the tenancy to be brought to an end on grounds 11, 12 and 14. The tribunal was however satisfied that the contractual assured tenancy has been brought to an end having had sight of the notice to quit produced and proof of service on the Respondent, thereby converting the tenancy to a statutory assured tenancy.
- 32 Section 19(1) of the 1988 Act states that "*The First-tier Tribunal shall not entertain proceedings for possession of a house let on an assured tenancy unless – (a) the landlord (or where there are joint landlords, any of them) has served on the tenant a notice in accordance with this section; or (b) the Tribunal considers it reasonable to dispense with the requirement of such a notice.*" The tribunal was satisfied based on the Form AT6 produced that the Applicant has given the Respondent the required notice under section 19(1)(a) of the 1988 Act. The tribunal was further satisfied that the Applicant had given the Respondent a section 11 notice to the local authority in accordance with the requirements of section 19A of the 1988 Act.
- 33 The tribunal therefore considered the wording of the grounds relied upon.
- 34 The tribunal first considered grounds 11 and 12 which are both rent arrears grounds:-

“Ground 11

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.

Ground 12

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 the service of the notice under that section relating to those proceedings.”*

- 35** The tribunal determined based on the rent statement before it that both grounds 11 and 12 are met in this case. The statement demonstrates rent arrears have accrued over a prolonged period because of the Respondent’s repeated failure to pay the contractual rent for the property.

- 36** Ground 14 is in the following terms:-

“Ground 14

The condition of the house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any one of joint tenants or any person residing or lodging with him or any sub-tenant of his; and, in the case of acts of waste by, or the neglect or default of, a person lodging with a tenant or a sub-tenant of his, the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

In this Ground, “the common parts” means any part of a building containing the house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other houses.”

- 37** The tribunal was not satisfied based on the inspection report produced that the condition of the property has deteriorated significantly over the course of the tenancy. The tribunal had no evidence of the current condition of the property, except for some photographs of the property submitted by the Respondent. The tribunal considered that the Applicant had failed to establish that ground 14 had been met.
- 38** Section 18(4) of the 1988 Act states “*if the First-tier Tribunal is satisfied that any of the grounds of Part I or II of Schedule 5 to this Act is established, the Tribunal shall not make an order for possession under the Tribunal considers it reasonable to do so.*” In considering whether it is reasonable to make an eviction order on grounds 11 and 12, the tribunal must also have regard in terms of section 18(4A) to the extent to which the arrears are a result of any failure or delay in the payment of a relevant benefit or universal credit, and the extent of the landlord’s compliance with the rent arrears pre-action protocol.

- 39** The tribunal therefore carefully considered the reasonableness of making an eviction order in the circumstances of this case which requires the tribunal to identify those factors relevant to reasonableness and determined what weight to give to them.
- 40** The tribunal was not persuaded that the arrears figure quoted by the Applicant was accurate, considering the significant period over which the Applicant had accepted reduced payments of rent, a period of around four years. However, the tribunal noted that the Respondent did not dispute the payment history narrated by the Applicant since July 2025. The tribunal therefore gave significant weight to fact that no rent had been paid since October 2025, resulting in a high balance of arrears. The tribunal also considered the impact of the arrears on the Applicant. The tribunal accepted that the situation would have caused him significant stress and financial difficulty, particularly as he has a mortgage over the property.
- 41** The tribunal had regard to the correspondence sent to the Respondent from the Applicant's representative, which demonstrated compliance with the rent arrears pre-action protocol insofar as providing the Respondent with information regarding the rent and arrears, offering to enter payment plans, and directing her to agencies for advice and support. The tribunal noted that there was no evidence to suggest that the arrears had accrued because of a failure or delay in the payment of a relevant benefit or housing credit.
- 42** The tribunal carefully considered the Respondent's circumstances. The tribunal did not find her explanation for the non-payment of rent to be entirely satisfactory. It was not clear why she had failed to pay any rent whatsoever over a prolonged period, not even making token payments to show good faith. Whilst the tribunal had concerns about the risks of homelessness to the Respondent and her five children, ultimately the tribunal noted that the local authority will have obligations towards the Respondent and her family once an eviction order is made in terms of offering them at the very least temporary accommodation. The tribunal considered that given the Respondent's circumstances it appeared that the tenancy was simply no longer sustainable and it may be to her benefit to secure alternative accommodation. However, the tribunal determined that it would be reasonable to delay the execution of the order for two months to allow the local authority further time to source suitable alternative accommodation for the Respondent and her family and perhaps avoid the need for them to be housing in temporary accommodation.
- 43** Accordingly, having assessed those factors relevant to reasonableness, the tribunal concluded that the balance weighed in favour of making an eviction order on grounds 11 and 12 for the above reasons.
- 44** The tribunal therefore made an eviction order under section 18 of the 1988 Act with execution of the order suspended for a period of two months. The decision of the tribunal was 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.

Ruth O'Hare

30 June 2026

Legal Member/Chair

Date