



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of Schedule 5 of the Housing (Scotland) Act 1988 (“the Act”).

Chamber Ref: FTS/HPC/EV/26/0081

Re: Property at Flat 1/1, 1395 London Road, Glasgow, G31 4PF (“the Property”)

Parties:

Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)

Mr Simon Sinclair, Flat 1/1, 1395 London Road, Glasgow, G31 4PF (“the Respondent”)

Tribunal Members:

Susan Christie (Legal Member) and Eileen Shand (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 recovery of possession of the property be made in favour of the Applicant in terms of Grounds 11 and 12 of Schedule 5 of the 1988 Act.

Background

1. The Applicant made an application under Rule 65 of the Chamber rules seeking an order for recovery of possession of the property in terms of section 18 of the 1988 Act. The Grounds relied on being 11 and 12 and referred to rent arrears, which was accepted by the tribunal for consideration.
2. The Applicant has provided paperwork along with the application which consisted of a copy of the tenancy agreement, a Section 33 notice, a Notice to Quit, an AT6 form, all with accompanying executions of service, pre-action letters, a section 11 notice of intimation on the local authority, and a full rent schedule.
3. An updated rent schedule was subsequently produced and intimated on the Respondent around 19 August 2026.

4. The Respondent was served with the paperwork on 27 July 2026. Written representations were invited from him by 14 August 2026. None were submitted.

The Case Management Discussion (CMD)

5. The Case Management Discussion took place on 26 August 2026 by teleconference. Ms Rutherford from Lowther Homes Ltd participated, represented by Ms Graham, solicitor. There was no participation by or for the Respondent.
6. The tribunal had sight of an execution of service of the tribunal paperwork and notification of the CMD details and was satisfied it could proceed to consider the application in the Respondent's absence.
7. The Applicant's Representative sought an order for recovery of possession.
8. The following information was put before the tribunal:
 - (1) The Respondent is 49 years of age, is the sole tenant, has no known dependents, is unemployed and is in receipt of Universal benefit.
 - (2) The short- assured tenancy between the Parties commenced on 19 July 2016. The initial rent due was £450 per calendar month.
 - (3) The rent was maintained for roughly two years then went into arrears. The arrears were cleared around November 2018, then have been variably up and down since then with the payments never clearing the arrears in full and the arrears balance increasing to a significant level. When pre-action letters were served, the balances due were £5974.69 and £6, 576.17. When notices were served in November 2025 the balance was as high as £9198.61. A large payment had been made to account at one point, but the arrears balance was still substantial.
 - (4) The rent had increased each year in line with the standard rent increase processes of the Applicant and notified to all tenants. When this occurs, a tenant is invited to review their payments to keep up.
 - (5) A payment arrangement was made by the Respondent around November 2025, whereby he was to pay £770 per month. At that time the Respondent was advised that if he kept to that then a payment only order would be sought; otherwise, the recovery order would also be sought. By June 2025 the Respondent had defaulted on this and paid lower amounts meaning less was being paid towards the arrears. This was not agreed upon and there was a rent increase thereafter which meant the amount going towards the arrears was even less.
 - (6) No agreement for rent direct payments had been made, and any benefits went directly to the Respondent.
 - (7) The current balance due and owing is £5678.44. The arrears at the current rate of payment towards those of £35.05 per month, would take approximately 13 years or so to clear.
 - (8) With reference to tenancy notes, there is reference to the Respondent having suffered from anxiety and had shingles at one point but nothing that related to his non-payment of rent. Benefit was in payment directly.
 - (9) The property was not adapted and is a 2 bedroomed one.

(10) A representative from the Citizens Advice Bureau had called the afternoon before the CMD to say that they had belatedly been asked about the CMD but were not instructed nor qualified to appear. They were advised if they wished to make any representations or for an adjournment then someone or the Respondent should participate today to give details. No-one had joined the call. The Respondent had been given ample time and opportunity to meaningfully resolve the situation, and the applicant was seeking orders for recovery and payment, and it was reasonable to grant the order.

9. The tribunal adjourned to consider all material before reaching a decision.

Findings in Fact

1. The short-assured tenancy between the Parties commenced on 19 July 2016.
2. As of 26 August 2026, the unpaid rent due and owing is £5678.44.
3. The Respondent is the sole tenant and lives alone. He is in receipt of benefits directly.
4. The Respondent has persistently delayed in paying full rent and arrears of rent lawfully due between December 2018 and November 2025; made no payments between May 2025 and 1 November 2025.
5. The Respondent entered into a final payment arrangement to pay £770 per month to resolve the tribunal proceedings under caution that if he defaulted recovery would be sought. He maintained this arrangement for a short period then reduced his payments to an amount that was not acceptable to the Applicant.
6. The new rent for the property as of 1 August is £694.95. The payment being made of £730 per month allows for small payments to be made to the arrears. It would take many years to repay the arrears, even if maintained, at that rate.
7. The Applicant followed the pre-action protocol.
8. The Applicant served on the Respondent a notice in terms of section 19 of the Act based on Grounds 11 and 12 of Schedule 5. The Applicant became entitled to make this application as of 9 December 2025.
9. A Notice to Quit and Section 33 Notice under the Act was served on the Respondent with a termination date of 28 January 2026. The tenancy then became a statutory tenancy.
10. A section 11 notice had been served on the relevant local authority.

Reasons for Decision

1. The Applicant seeks recovery of possession based on Grounds 11 and 12 of Scheduled 5 to the Act. A Notice to Quit and Section 33 Notice under the Act was served on the Respondent with a termination date of 28 January 2026. The tenancy then became a statutory tenancy.
2. The pre action protocol had been complied with.
3. The rent history was evidenced by the detailed rent statements produced.
4. The relevant notices have been served as evidenced by the paperwork produced.
5. The tribunal placed weight on the following factors:

6. The arrears and failures to maintain ongoing rental payments and allow the arrears to accrue over a lengthy period are well evidenced by the rent statements produced.
7. The formal correspondence issued by the Applicant in part resulted in engagement and partial payment and a final arrangement to pay being agreed. This would have resulted in the Applicant seeking a payment order only. However, it was not maintained, and the payments were unilaterally reduced by the Respondent. This, along with the yearly increased rental due had resulted in a situation where the level of repayment was not at a rate to repay the rent arrears at a level that was reasonable. The Respondent had stated to the Applicant that his agreed repayments were not affordable, but no further details were provided.
8. There did not appear to be any delay in payment of relevant benefits that had caused the ongoing rent arrears to accrue to the level it has.
9. Whilst the Respondent is on benefits, those are paid to him directly and therefore he is obliged to manage his rental payments and the arrears to a mutually acceptable level.
10. The tribunal considered whether it was reasonable to grant the order as part of its deliberations. In doing so, it had regard to the prescribed factors in section 18(4A) and took into account the duration of the arrears, the level of arrears, the final broken arrangement that would have resolved the matter, and the length of time it would take for the arrears to be cleared if the current payments were maintained. It appeared to the tribunal that the Applicant could have come to a compromise with the Respondent had he meaningfully engaged and taken steps to consistently reduce the arrears to a manageable level and aim to clear the arrears within a reasonable time. With annual rent increases affordability was a reason for regular engagement. The tribunal had not been given any information from the Respondent that he wished the tribunal to consider. There was no information to suggest that the current payments would be consistently maintained and agreed, and there was no information given by him around his detailed financial or personal circumstances. The rent arrears were high. It would take around 13 years to clear them at the rate of pay made currently and did not factor in the current annual rent increase. The tribunal was not satisfied that the arrears were capable of resolution within a reasonable time. With reference to tenancy notes, there is reference to the Respondent having suffered from anxiety and had shingles at one point but nothing that the tribunal could attribute to his ongoing arrears. Benefit was in payment directly to him. The tribunal concluded that the balance weighed in favour of it being reasonable to grant the order.
11. The decision of the tribunal 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.

S. Christie

Legal Member/Chair

26 August 2026
Date