



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 (“the 1988 Act”)

Chamber Ref: FTS/HPC/EV/25/4983

Re: Property at 2/L, 4 Nelson Street, Dundee, DD1 2PP (“the Property”)

Parties:

Mr Michael Osborne, 7 Knockdene Park North, North Road, Belfast, BT5 4NL (“the Applicant”)

Ms Samantha Webster, 2/L, 4 Nelson Street, Dundee, DD1 2PP (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be refused.

Background

1. An application was received from the Applicant’s representative on 19 November 2025 seeking an eviction order in terms of rule 65 (Application for order of possession in relation to assured tenancies) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The Applicant sought an order for recovery of the property under Grounds 11 and 12 of Schedule 5 of the 1988 Act.
2. On the same date, the Applicant made an application (reference number: FTS/HPC/CV/25/4984) seeking a payment order in respect of alleged rent arrears under Rule 70 of the 2017 rules. The two applications were conjoined.
3. Attached to the application form were:

- (i) Copy short assured tenancy agreement between the parties in relation to the property, which commenced on 2 November 2015.
 - (ii) Copy form AT5 in respect of the short assured tenancy agreement dated 28 October 2015.
 - (iii) Copy form AT6 citing grounds 11 and 12 dated 15 September 2025, together with certificate of service by sheriff officer dated 16 September 2025.
 - (iv) Rent statement showing the rent due to be £1995.15 as at 4 November 2025.
 - (v) Various pre-action requirements letters from the Applicant's representative to the Respondent regarding her outstanding rent arrears, dated between 10 February 2023 and 17 September 2025, with proof of delivery .
 - (vi) Copy notice to Dundee City Council under section 11 of the Homelessness etc. (Scotland) Act 2003 with proof of sending by email on 19 November 2025.
4. Following a request from the tribunal administration, further information was received from the Applicant's representative on 8 December 2025.
 5. The application was accepted on 7 January 2026.
 6. Updated rent statements were received from the Applicant's representative on 10 February and 9 April 2026 showing the outstanding arrears to be £2295.15 and £2375.15 respectively.
 7. A further submission was received from the Applicant's representative on 20 May 2026. This included an updated rent statement showing the outstanding arrears as at that date to be £2285.15, and an email from the Respondent dated 18 May 2026 stating that she had now set up a standing order to pay £150 every week, comprising her £360 monthly rent together with £240 per month towards her arrears.
 8. No written representations or time to pay application were received from the Respondent prior to the case management discussion (CMD) on 2 June 2026.

The case management discussion

9. A CMD was held by teleconference call on 2 June 2026 to consider both the present application and the accompanying civil proceedings application (reference no: FTS/HPC/CV/25/4984). Ms Melissa Coleman of Struan Baptie Property Management was present on the call and represented the Applicant. The Tribunal delayed the start of the CMD by 10 minutes, but the Respondent did not join the teleconference call and no telephone calls or messages had been received from her.

10. The tribunal was satisfied that the Respondent was aware of the CMD, and that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case management discussion had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondent.
11. Ms Coleman noted that the Respondent had been in rent arrears continuously since June 2021. While she had made fairly regular payments during most of that time, these were sporadic and the amounts varied. There had been little communication with the Respondent recently, until her email of 20 May 2026, when she had stated that she would set up a standing order for £150 per week, in order to pay her rent of £360 per month plus £240 per month towards the arrears.
12. Ms Coleman confirmed that since the rent statement was submitted on 20 May 2026, three payments of £150 had been received, on 19 and 26 May and on the date of the CMD. The rent for June now having been charged to the account, the outstanding balance was £2195.15 as at the date of the CMD.
13. Ms Coleman said that the Applicant owned two rental properties and that he was 'winding down' and wished to sell the property. He was finding the matter stressful as he was not always receiving the monthly rent and there had been periods where no rent was paid at all.
14. She confirmed that the Applicant has a mortgage of around £45-50000 over the property and that the fixed rate is due to end soon, at which point the rate will increase. The Applicant is 63 years old and lives in Northern Ireland. He wishes to sell the property and pay off the mortgage.
15. She said that the Respondent was thought to be in her late 40s or early 50s and to live alone in the property, which is a one bedroom flat. She had previously been working and was then on benefits. Ms Coleman did not know whether she was still in receipt of benefits and/or whether she is currently working, but said that the Applicant had not received any benefit payments directly since September 2024. She believed that the Respondent had previously suggested that she may have mental health difficulties when she had been contacted regarding the arrears.
16. Ms Coleman said that the Applicant wished to seek an eviction order. She said that the Respondent had made repayment arrangements before but had not stuck to them.
17. The tribunal was satisfied, in the absence of any opposition from the Respondent, that the requirements for grounds 11 and 12 had been met. It also noted that the Applicant had complied with the pre-action requirements.

18. In terms of whether it was reasonable to grant an eviction order, the tribunal noted that, while the arrears were longstanding, they were currently only slightly higher than they had been when the application was first submitted on 19 November 2025. They were not particularly high, although the rent had remained at a low level. The Respondent has been living in the property for 12 years, and had recently made proactive efforts to address the arrears by setting up a repayment arrangement. While it was early days, she had stuck to the proposed arrangement to date.
19. The tribunal made an order on the conjoined application requiring the Respondent to pay the sum of £2195.15 to the Applicant in respect of rent arrears. It did not consider, however, that it would be reasonable to make an eviction order at this stage. It therefore decided to continue the application to a further CMD to allow the Respondent to continue to make payments towards the arrears and her ongoing rent.
20. The tribunal would consider at the continued CMD whether it would be reasonable in all the circumstances to make an eviction order against the Respondent. The tribunal made a direction to the parties inviting them to submit further information. The tribunal noted that it would be helpful to hear from the Respondent at the continued CMD, should she wish to attend.

The continued case management discussion

21. The continued CMD was held by teleconference call on 2 September 2026. Ms Coleman was present on the call and again represented the Applicant. The Respondent was present on the call and represented herself.
22. The tribunal noted that it had received several updated rent statements since the initial CMD, the most recent being dated 25 August 2026. This showed that the outstanding arrears were £1555.15 as at that date. Ms Coleman said that she was unable to confirm whether a further payment had been made the previous day as this would not be showing on the system yet. The Respondent said that she had made a further payment of £150 by standing order the previous day.

Submissions on behalf of the Applicant

23. Miss Coleman acknowledged that the Respondent had been making regular payments towards the arrears, which had reduced in the three months since the initial CMD.
24. She said, however, that the Applicant still sought an eviction order against the Respondent. He still wished to sell the property, for the reasons previously

stated. He has two properties in Dundee and wishes to stop being a landlord there. She thought he may have other rental properties in Ireland, but did not have any further information about this. He still had a mortgage on the property and his fixed rate would be ending soon, although she did not know how soon. He wished to sell the property and pay off the mortgage.

25. She said that the Respondent had been a good tenant otherwise, but her non-payment of rent had been an issue. The Applicant had found the situation stressful when the rent was not being paid.

Submissions by the Respondent

26. The Respondent said that she accepted that she was in rent arrears. She had gotten into arrears in 2023 when she had been unwell and was on Universal Credit. She was still receiving Universal Credit, and had thought that her rent was being paid. She said that she had not been informed by DWP that her rent was no longer being paid, and that her mental health had not been good at the time.
27. She is now working 6 days per week as a bar manager. She did not like being in debt and had become concerned at the level of her arrears. She had therefore offered £150 per week as she thought that this would be high enough to pay her rent and to pay off the arrears. She may possibly be able to pay more than this some weeks, but her hours, and therefore her income, vary from week to week. Where she had not been able to pay £150 in some weeks, she had tried to make up the difference the following week. She had set up a standing order to make the payments, to ensure that they were paid each week.
28. She had been unaware until today that the Applicant wanted to sell the property. She wished to stay in the property. She loves living there, and has been there for 12 years. It is quiet and she knows her neighbours. She has been a good tenant, aside from the arrears. She wants to be debt free as soon as possible, and will pay more towards her arrears where she can, in order to avoid stress to the Applicant.

Findings in fact

29. The tribunal made the following findings in fact:
- The Applicant is the owner and registered landlord of the property.
 - The parties entered into a short assured tenancy agreement in relation to the property, which commenced on 2 November 2015.
 - The rent in terms of the tenancy agreement was £360 per calendar month payable in advance on the 2nd day of each month. The rent has remained at the same level throughout the tenancy.

- There had been a previous tenancy agreement between the parties which commenced on 23 May 2014.
- The tenancy agreement allowed for the tenancy to be brought to an end on grounds 11 and 12 . A Notice to Quit was not therefore required.
- The form citing grounds 11 and 12 was validly served on the Respondent by sheriff officer on behalf of the Applicant on 16 September 2025.
- The Respondent lives alone in the property.
- The Respondent is currently employed full time, although her weekly hours vary. She is not in receipt of benefits.
- The Applicant has a mortgage over the property.
- The Applicant has complied with the pre-action requirements.
- The Respondent's being in arrears of rent over the period in question is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
- The Respondent has been paying £150 per week towards the rent and her arrears since May 2026 most weeks, although a few weekly payments since then have been for £110.
- As at the date of the continued CMD, the Respondent owed the Applicant £1495.15 in rent arrears.
- Taking into account her most recent payment, the Respondent has reduced her arrears by a total of £790 since the initial CMD.

Reasons for decision

30. The tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.
31. The tribunal was satisfied that the requirements of both Grounds 11 and 12, as set out in Schedule 5 of the 1988 Act had been met. In terms of Ground 11, the Respondent has persistently delayed paying rent which has become lawfully due. Ground 12 also applies as some rent lawfully due from the Respondent was (a) unpaid on the date on which the proceedings for possession are begun; and (b) was in arrears at the date of the service of the form AT6 relating to those proceedings.
32. The tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.

33. Firstly, the tribunal noted that the Applicant has complied with the pre-action requirements. With regard to benefits, it seemed that a change in the Respondent's benefits may have at least partly accounted for her having fallen into arrears. There was no suggestion, however, that the arrears were wholly or partly a consequence of a delay or failure in the payment of a relevant benefit a delay or failure in the payment of a relevant benefit .
34. The tribunal acknowledged that the Applicant had a mortgage over the property and that the Respondent's failure to pay her full rent had had financial implications for him and caused him stress. While it appeared that he wished to sell the property, this application was made on the grounds of the Respondent's rent arrears. The Tribunal also noted that the Applicant owned at least one other rental property, possibly more.
35. The tribunal took into account the fact that the Respondent had been living in the property for more than 14 years and that she was settled there. She is now working full time and while her monthly payments have varied slightly over the past few months, she has paid £150 in most weeks over the past few months. While the rent under her tenancy remains low, she has substantially reduced her arrears since the time of the initial CMD. Her arrears are now less than £1500 and if she continues to pay them off at the current rate, they should be cleared in around six months' time.
36. The tribunal gave particular weight to the Respondent's efforts to repay her arrears, and the low level of those arrears.
37. The tribunal decided that in light of all the above considerations, it would not be reasonable in all the circumstances to grant an eviction order in favour of the Applicant against the Respondent. The tribunal therefore refused the application.
38. Further to the discussion at the continued CMD, the tribunal notes that it is possible that the Applicant may make another application to the tribunal in due course on other grounds. It observes, however, that as this is a short assured tenancy, there is no eviction ground under the 1988 Act relating to the landlord's intention to sell equivalent to that which exists for private residential tenancies.

Decision

The Tribunal refused the application on the grounds of reasonableness.

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.

Sarah O'Neill

Sarah O'Neill

02 September 2026

Legal Member/Chair

Date