



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

Chamber Ref: FTS/HPC/EV/26/1180

Re: Property at Number 7 Kirkton of Echt Cottages, Echt, Aberdeenshire, AB32 7AB (“the Property”)

Parties:

The Dickinson Trust Limited as Trustee for the Dunnottar Trust, Dunecht Estates Office, Dunecht, Westhill, AB32 7AW (“the Applicant”)

Miss Suzanne Robertson, Number 7 Kirkton of Echt Cottages, Echt, Aberdeenshire, AB32 7AB (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 11th March 2026. The application was submitted under Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The application was based on grounds 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 (“the Act”).
2. On 30th July 2026, all parties were written to with notice of a Case Management Discussion (“CMD”) to be held on 10th September 2026 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 20th August 2026.
3. On 5th August 2026, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 5th August 2026.

4. On 20th August 2026, the Applicant emailed the Housing and Property Chamber, requesting the amount sought be increased to £11,210 for the conjoined application.
5. The case was conjoined with case FTS/HPC/CV/26/1181.

The Case Management Discussion

6. A CMD was held on 10th September 2026. The Applicant was represented by Mr Alex Morrison and Ms Becky Ward from Dunchet Estates. The Respondent was not present and was not represented. The Tribunal proceeded in terms of Rule 29 of the Regulations. The Respondent did not make any representations in advance of the CMD.
7. Mr Morrison said that when the application was lodged the arrears were £8200. They have now increased to £11210. The last payment was made on 17th January 2025.
8. The Tribunal asked if the Respondent was still in the Property. Mr Morrison said that they have made a number of attempts to see if the Respondent is still in the Property. They have visited on several occasions but there has been no answer each time. The curtains have remained closed each time they have visited. They did suspect that there was someone in the Property when they went but that they had chosen not to answer the door. Mr Morrison said that the neighbours have said that there are lights on in the evening. This has led to the belief that the Respondent is either there part-time or her daughter is there. Her daughter is believed to be in her late teens. He noted that the Property appears to be in a poor state.
9. Mr Morrison said that there is not much information known about the Respondent. The Property has not been adapted for any disabilities. There are no known vulnerabilities or disabilities.
10. While it is noted that there was no Notice to Quit served under section 18 of the Act, there is an exemption from the requirement to serve a Notice to Quit for this ground. This is on the basis that it is notified in the lease. The lease does specify this at clause 7 with the grounds fully detailed in the schedule of the lease.

Findings and reason for decision

11. The parties entered into a Short Assured Tenancy on 5th May 2017 until 27th November 2017. An AT5 was signed by both parties on 2nd May 2017. The rent of £590 is due on the twenty seventh day of each month.
12. The Respondent has persistently failed to pay her rent charge.

13. There have been no payments to the rent account since 17th January 2025. There have been no offers of payment to the arrears or the ongoing rent charge. The arrears are currently £11,210.
14. The Tribunal must also consider whether it is reasonable to grant the order. In doing so, it must consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, **Cumming v Danson**, [1942] 2 All ER 653 at 655, in which Lord Greene MR said, in an oft-quoted passage:

“[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account”.

15. The Tribunal further notes that in an Upper Tribunal case, **Scott Mackellar v. Nicola Carlin** (2025UT19 UTS/AP/24/0008), Sheriff Reid issued a decision dated 25 March 2025. In that decision the Upper Tribunal quashed a decision of the First-tier Tribunal refusing an eviction application and granted an eviction order.
16. In that decision at paragraph 31, Sheriff Reid indicated that:-

“the FTS has fallen into error in its overall assessment of reasonableness, in respect that no reasonable tribunal could properly have concluded, on the evidence available, that it was not reasonable to grant an order for eviction in circumstances where the tenant (i) has not paid full rent in more than a year (a fortiori to the objectively-significant extent proven by the Appellant); (ii) has not responded to correspondence seeking payment of the arrears or cessation of the persistent ongoing monthly shortfalls in rent; and (iii) has made no proposals whatsoever to clear the arrears or to resume full contractual payments, still less within a reasonable period”.

17. In all the circumstances the Tribunal decided that it was reasonable to grant the order sought. The level of arrears is significant. The arrears are not currently reducing. The Respondent has failed to communicate with the Applicant's letting agent to enter into a payment arrangement to deal with ongoing rent and arrears.
18. The Respondent has lodged no written representations with the Tribunal despite being offered the opportunity to do so. She did not attend the CMD to provide any information to the Tribunal to dispute the information provided by the applicant nor to set out any reason why it would not be reasonable to grant the Order.
19. The Tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

Decision

20. The Tribunal found that grounds 11 and 12 had been established and granted an order in favour of the Applicant. The Applicant is entitled to an Order for recovery of possession.

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.

Gabrielle Miller

22nd September 2026

Legal Member/Chair

Date