



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/26/1390

Re: Property at 39 Springhill Road, Aberdeen, AB16 6SA (“the Property”)

Parties:

**Mr Gordon Fraser, Anita Thomson, Bridgend House, Girnoc, Ballater, AB35 5SS
 (“the Applicant”)**

**Miss Victoria Allan (previously Winstanley), 39 Springhill Road, Aberdeen,
AB16 6SA (“the Respondent”)**

Tribunal Members:

Hilary Macandrew (Legal Member) and Gerard Darroch (Ordinary Member)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an Eviction Order be granted.**

1) Background

- 1.1 By Application dated 26th March 2026 the Applicant sought an order under Section 18(1) of the Housing (Scotland) Act 1988 (‘the Act’)
- 1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 28th April 2026.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 7th August 2026.
- 1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-
 - Copy Tenancy Agreement dated 31st July 2015
 - AT 5 dated 22 June 2015
 - Copy Tenancy Agreement dated 31 July 2016

- AT5 dated 26 July 2016
- Confirmation of change in rental dated 4 November 2025
- AT6 dated 3 March 2026
- Confirmation of delivery of AT6
- Rent Statement to 23 March 2026 and current Statement of Rent
- Pre Action correspondence dated 19 April 2024, 13 May 2025 and 10 June 2025
- Section 11 Notice dated 26 March 2026
- Proof of delivery of Section 11 Notice

1.5 A Case Management Discussion was set to take place on 14 September 2026. Intimation was given to the Respondent by Sheriff Officers on 7 August 2026.

2) The Case Management Discussion

2.1 The CMD took place by tele conference on 8th September 2026. The Applicant was represented by Ms Bain of Mackinnons Solicitors. The Respondent took part personally.

2.2 The Applicant sought the Eviction Order based on Ground 11 (persistent delay in paying rent) Ground 12 (Some rent lawfully due is unpaid when the Application was made) of Schedule 5 of the Act.

2.3 Ms Bain explained that the tenancy is an assured tenancy which commenced on 31st July 2015. The rent was initially £800 per month. A new assured Tenancy was created on 31st July 2016. The rent was £650 per month. In September 2018 by agreement the rent was reduced to £600 per month. The arrears narrated in the Application were £3,663.70. At the time of the CMD the arrears had risen to £6,655.42 which Ms Bain vouched in an updated rent statement. The Respondent has been consistently in arrears since September 2019. No rent was paid from November 2025 until March 2026. Since March 2026 a Discretionary Housing payment has been made monthly in sums varying from £102.75 to £127.41.

2.4 Ms Bain narrated that attempts have been made by the Applicant to set up payment plans with the Respondent but these had not been adhered to by the Respondent. The arrears are significant and the Land Lord is suffering financially. The lack of rental income is affecting the Applicants' retirement plans.

2.5 The Respondent did not dispute the level of rent arrears either at the time the Application was made nor currently. She works part time but is currently signed off work due to poor health. She hopes to get back to work and secure a second job. She has no proposal to clear the rent arrears nor to make payment of the ongoing rent. She has applied for and been granted a discretionary housing payment which covers less than a third of the monthly rent. She is a single lady with a teenage child who lives with her father, but who has lived with the Respondent. The Respondent has a partner but does not live with him. Friends

in Westhill have offered her temporary accommodation and she may be able to stay with her brother. She has contacted the local authority for assistance with alternative housing. They have stated that she will be given priority. She entered into a Protected Trust Deed in December 2025.

- 2.6 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 CMD 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 Tenancy agreement is an Assured Tenancy which commenced on 31st July 2015 at a current rent of £600 per month.
- 3.2 On 3rd March 2026, the Applicant served an AT6. The Notice is procedurally correct.
- 3.3 On 26th March 2026 the Applicant served the Section 11 Notice to Aberdeenshire Council. The Notice is procedurally correct.
- 3.4 The Respondent has been consistently in arrears since September 2019
- 3.5 The Respondent accepts that the arrears are currently £6,655.42. She has no proposal to settle the arrears or pay the monthly rent in full.
- 3.6 The basis for the Order for possession was accordingly established.

4) Issue For The Tribunal

- 4.1 The issue for the Tribunal is to determine whether or not it is reasonable to grant the Order.
- 4.2 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.
- 4.3 The Tribunal found that the Applicant is entitled to recovery of the property. The Tribunal had regard to the significant level of rent arrears which are accepted by the Respondent. The Tribunal took into account that the Respondent cannot pay the currently monthly rent. The Respondent has historically not maintained payment plans to address arrears. The Applicants are suffering financially from the non-payment of rent. The Respondent has sought alternative housing from

friends and family. The Applicant has approached the Local Authority who have stated that she will be prioritised for housing.

- 4.4 Accordingly, the Tribunal was satisfied that it is reasonable to grant an order for eviction.

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.

**H Macandrew
Legal Member/Chair**

**14th September 2026
Date**