



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/26/0029

Re: Property at 9 Lomond Crescent, Dunfermline, KY11 4BY ("the Property")

Parties:

Mr Gordon Adam Reid Smith, 12 South Dewar Street, Dunfermline, KY12 8AR, represented by Messrs Ross & Connel, solicitors ("the Landlord")

Mrs Leeanne McCourt or Adlam, 9 Lomond Crescent, Dunfermline, KY11 4BY ("the Tenant")

Tribunal Members:

Maurice O'Carroll (Legal Member) and Mary Lyden (Ordinary Member)

Decision

On 9 September 2026, the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") refused the application for a Possession Order

Background

1. A revised application for an Eviction Order was submitted to the Tribunal on 20 March 2026. Following correspondence with the Tribunal the application was based upon Ground 12 of Schedule 5 to the 1988 Act, rent arrears.
2. A Case Management Discussion (CMD) was held by telephone on 7 September 2026 at 10am. The Landlord was present on the call as was his representative, Ms Michelle Moran of Messrs Ross & Connel, solicitors. The Tenant (whose maiden name was McCourt) was personally present on the call, along with her husband, Arthur Adlam.
3. The CMD was convened in order to consider the application for an eviction Order. The application was made under rule 65 in respect of a Short Assured Tenancy, for non-payment of rent.

4. A deadline of 19 August 2026 for written representations had been set for the parties further to the Application. Neither party submitted further representations in relation to the eviction order application.

The Case Management Discussion

5. The Landlord applicant is the owner of the Property and is the landlord under a Short Assured Tenancy agreement with the Tenant which commenced on 1 November 2014 under her maiden name. Despite having since married Mr Arthur Adlam who also resides at the Property, the tenancy remained in her sole name.
6. The papers submitted in support of the application were unsatisfactory. Despite being requested to produce a schedule of rent arrears, the Tribunal was only provided with illegible hand-written correspondence and calculations written by the Landlord which only appeared to cover a period until 2023.
7. As noted above, proceedings were raised on 20 March 2026. The Notice to Leave (AT6) was served on 22 September 2025.
8. At the hearing itself, Ms Moran, the Landlord's representative was unable to provide an accurate figure for arrears as at the date of the hearing. No updated schedule had been produced for the Tribunal in advance of the hearing. Further, she was unable to state whether there had been rent arrears at the date of the service of the Notice to Leave. This information is required in terms of Schedule 5 of the 1988 Act.
9. The Tribunal would not have been prepared to grant the Eviction Order sought in light of those shortcomings. However, those failures became academic as the during the course of the call, the Landlord confirmed that despite the terms of the application, he was instead seeking repossession of the Property on Ground 1, to regain possession for himself as he intended to sell the Property.
10. That was not the application before the Tribunal. There was no supporting information in that regard such as correspondence with an estate agent setting out a willingness to market the Property; detailing the market value of the property or an estimate of marketing costs. No affidavit had been provided in advance of the hearing certifying the Landlord's intention to regain possession in order to sell the property.
11. The Tenant for her part provided evidence that she shared the Property with her spouse who suffers from severe epilepsy. She also shares it with her two sons, aged 16 and 17, one of whom has been diagnosed with autism and her two daughters, aged 14 and 7.

Decision of the Tribunal

12. In light of the information provided to the Tribunal at the hearing, it was not prepared to grant an Order for Possession based upon an application founded upon rent arrears when in fact the stated real reason was an intention to sell the Property. The rules of procedure exist to safeguard respondents from facing an application about which they have not been provided with adequate, formal notice, especially in view of the seriousness of the potential consequences should such an application be granted.
13. In this case, the Landlord sought to alter the basis of the application during the course of the hearing itself in way which would have fundamentally altered its basis. That basis required consideration of different evidence. The Tribunal was of the view that this was not an acceptable way to proceed.
14. The Tribunal therefore refused the application. It considered that a fresh application setting out the correct grounds for the Order sought, supported by appropriate evidence was necessary before it could be entertained by the Tribunal.

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.

M O'Carroll

Legal Member/Chair

7 September 2026

Date