



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 (the 1988 Act) and Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)

Chamber Ref: FTS/HPC/EV/26/0952

Re: Property at 19 Hamilton Place, Glenrothes, KY6 1AJ (the Property)

Parties:

Mrs Emma Whyte, 11 Carleton Crescent, Glenrothes, Fife, KY7 5AN (the Applicant)

Innes Johnston LLP, solicitors, 14 North Street, Glenrothes, Fife, KY7 5NA (the Applicant's Representative)

Ms Christine Davidson, 19 Hamilton Place, Glenrothes, Fife, KY6 1AJ (the Respondent)

Tribunal Members:

Ms Susanne L. M. Tanner K.C. (Legal Member)
Ms Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):

- (i) is satisfied that not later than the beginning of the tenancy the Applicant gave notice in writing to the Respondent that possession might be recovered on this Ground and the Applicant who is seeking possession requires the house as her spouse's only or principal home, and the Applicant did not acquire the landlord's interest in the tenancy for value;**
- (ii) is satisfied that it is reasonable to make an order for possession in the circumstances of the case; and**

- (i) (iii) made an order for possession in terms of Ground 1 in Schedule 5 of the 1988 Act

The decision of the tribunal was unanimous.

Statement of Reasons

1. The Applicant's Representative made an application to the tribunal on 26 February 2026 in terms of Section 18 of the Housing (Scotland) Act 1988 (the 1988 Act) and Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules).
2. The Applicant sought the Respondent's eviction from the property on grounds 1 (a member of the landlord's family wants to move into the let Property) and 13 (breach of tenancy agreement) of Schedule 5 to the 1988 Act.
3. The Applicant's Representative lodged a paper apart and an Inventory of documents with the Application.
4. The tribunal's administration obtained the Title Sheet to the property which shows that the Applicant and her spouse Lee Whyte have been the registered proprietors of the Property since 31 March 2010.
5. On 30 March 2026, the Application was accepted for determination and a Case Management Discussion (CMD) was fixed for 1 September 2026 at 1000 by teleconference.
6. By letter of 27 July 2026, parties were notified by letter of the date, time and place of the CMD and told that they were required to attend. Parties were also advised in the same letter that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the Application, which may involve making or refusing an eviction order. If parties do not attend the CMD this will not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondent was asked to submit any written representations to the tribunal's offices by 17 August 2026.
7. The Application paperwork and notification of the date, time and place of the CMD was personally served on the Respondent by Sheriff Officers on 28 July 2026.
8. The Respondent did not submit any written representations or make any contact with the tribunal prior to the CMD.

Case Management Discussion (CMD): 1 September 2026 at 1000 by teleconference

9. The Applicant's Representative, Ms McGowan, trainee solicitor, attended with the Applicant.
10. The Respondent attended.

Amendment of the Application

11. The Applicant's Representative amended the Application to remove Ground 13 and sought an order for possession on the basis of Ground 1 only.

Respondent's position

12. The Respondent did not oppose the Application.
13. She stated that she is seeking an alternative property for her and her adult son, who has special needs. They need a ground floor property without steps due to each of them having health conditions and mobility issues. The current Property has one step externally and steps internally and has not been adapted to meet their needs. They are seeking a three bedroomed property because her son has access to his two children. She has not yet secured another property. She has applied to the local authority and has a housing officer assigned. She has also applied to housing associations in her area. The housing officer is calling her after the CMD. She was told by the housing officer that the local authority will start to look for a suitable property once the order for possession has been made by the tribunal.

14. The tribunal makes the following findings-in-fact:

- 14.1. The Applicant is one of the joint registered proprietors of the Property, with her spouse Lee Whyte.
- 14.2. There is an assured tenancy between the Applicant and the Respondent for the Property which began on 21 July 2013 and lasted until 21 January 2014 and then continued by tacit relocation on a monthly basis.
- 14.3. The Applicant and her spouse, Mr Whyte, have separated and Mr Whyte requires to move into the Property as soon as possible.

- 14.4. The AT6 Notice was served on the Respondents on 2 December 2025.
- 14.5. The Applicant has given to the Respondent at least two months' notice stating that they require possession of the Property.
- 14.6. The Application to the tribunal was made on 26 February 2026.
- 14.7. The Respondent lives in the Property with her adult son who has special needs.
- 14.8. The Respondent and her son both have health and mobility issues.
- 14.9. The Property has one stair externally and stairs internally and it is not adapted to meet the needs of the Respondent and her son.
- 14.10. The Respondent's son has access to his children who sometimes stay in the Property.
- 14.11. The Respondent has applied to the local authority and local housing associations for suitable alternative housing for her family but has not yet secured alternative accommodation.

Discussion

- 14.12. The Respondent did not oppose the application for an order for possession of the Property on Ground 1 of Schedule 5 to the 1988 Act.
- 14.13. The tribunal is satisfied that the requirements of Ground 1 of Schedule 5 to the 1988 Act are met.
- 14.14. The tribunal is satisfied on the basis of the findings of fact and on account of those facts, it is reasonable to make an order for possession of the Property.

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.

Susanne Tanner

Ms. Susanne L. M. Tanner K.C.
Legal Member/Chair

1 September 2026