



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71(1) of Private Housing
(Tenancies) (Scotland) Act 2016 ('the Act')**

Chamber Ref: FTS/HPC/EV/26/0670

Re: Property at Flat 1/1 8 Springvale Place, Saltcoats, KA21 5LS ("the Property")

Parties:

**Mrs Anne Finlayson, Mr Allan Finlayson, 15 St Meddens Crescent, Troon, KA10
6NT ("the Applicant")**

**Mr David Agnew, Flat 1/1/ 8 Springvale Place, Saltcoats, KA21 5LS ("the
Respondent")**

Tribunal Members:

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

Decision in absence of the Respondent

**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 16th March 2026 the Applicant sought an order under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016
- 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 6th August 2026.
- 1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Private Rental Tenancy agreement
- Notice to Leave ('NTL') and proof of service
- Section 11 Notice
- Rent Statement
- Pre Action Requirements correspondence
- Photographs of the interior of the property
- Correspondence with Universal Credit agency

1.5 A Case Management Discussion was set to take place on 14th September 2026. Intimation was given to the Respondent by Sheriff Officers on 6th August 2026.

2) The Case Management Discussion

2.1 The CMD took place by tele conference on 14^h September 2026. The Applicants were present and represented by Mrs Cameron of Taylor and Henderson, Solicitors. The Respondent was neither present nor represented.

2.2 The Applicant sought the Eviction Order based on Ground 1, that the Applicants wish to sell the property, Ground 11 that the Respondent has breached terms of the tenancy and Ground 12 that the rent has been in arrears for a continuous period of three months or more of Schedule 3 of the Act.

2.3 Mrs Cameron explained that the Applicants wished to sell the property as they no longer wished to be land lords of the property. They have suffered considerable drama and anxiety with this particular property and wish to market the property for sale. The Respondent had breached the tenancy agreement by damaging the property, failing to give notice of urgent work required to be undertaken at the property and he had refused engineers access to carry out essential boiler repair and maintenance. The Applicant Mr Finlayson had visited the property in September 2025 at the invitation of the Respondent and saw the damage to the property himself. Furthermore the Respondent is in arrears with rent as demonstrated by the rent statement. It disclosed more than three months arrears at the time the Notice to Leave was issued with rent due to be paid of £2,948.50. At the date of the CMD the arrears were noted as £5,409.50. The Applicant is not engaging with the Applicants. He is not engaging with the Universal Credit agency and therefore rent is unpaid.

2.4 Mrs Cameron was able to confirm the Respondent is a single man of around 42 years of age. The Applicants were aware he had mental health issues when he took the tenancy. They had shown compassion and patience. The Respondent has become increasingly difficult in regards to his conduct of the tenancy and lack of engagement with the Applicant and others.

2.5 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 a Private Rental Tenancy Agreement which commenced on 30th May 2018.
- 3.2 On 12th August 2025 the Applicant served Notice to Leave on the Respondent under Grounds 1, 11 and 12 of Schedule 3 to the Act. The Notice to Leave became effective from 5th November 2025. The Notice was correctly drafted and provided sufficient Notice.
- 3.3 The Applicants wish to sell the property. The Respondent has breached terms of the Tenancy Agreement by damaging the property, failing to give notice of urgent work required to be undertaken at the property and he had refused engineers access to carry out essential boiler repair and maintenance. The Respondent had been in arrears of rent for more than three or more consecutive months.
- 3.4 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 Applicant has demonstrated that they are intending to sell the property and have explained their reason for doing so. The Applicant has demonstrated by submission and photographs that the Respondent has breached the Tenancy Agreement by damaging the property, failing to advise the Applicants of repairs and refusal to allow engineers to enter the property to attend to essential work. The Tribunal had regard to the significant level of rent arrears. The Respondent has not engaged with the Applicant nor with the Tribunal process.
- 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.

Legal Member/Chair

Date: 14th September 2026

Hilary Macandrew