Housing and Property Chamber
First-tier Tribunal for Scotland

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/25/4709

Re: Property at Craigendunton, Waterside, Kilmarnock, KA3 6JJ ("the Property")

Parties:

Mr Mark Baird, C/O Cockburn & Co. Solicitors, Burngill Place, Main Street, Bridge of Weir, PA11 3PF ("the Applicant")

(FIRST RESPONDENT) Ms Judith or Judi Elizabeth Bradley, UNKNOWN, (SECOND RESPONDENT) Mr Joseph Reid, 37 Rockhampton Avenue, East Kilbride, G75 8EN, (THIRD RESPONDENT) 'Unknown Occupiers', Craigendunton, Waterside, Kilmarnock, KA3 6JJ ("the Respondents")

Tribunal Members:

Serena Weir (Legal Member) and David Godfrey (Ordinary Member)

Decision in absence of the Second and Third Respondents

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an eviction order should be granted against the Respondents in favour of the Applicant, such order not to be enforced before 12noon on 27 November 2026.

Background

1. By application dated 31 October 2025, the Applicant applied to the Tribunal for an Order for eviction in relation to the Property based on Grounds 1 of Schedule 5 to the Housing (Scotland) Act 1988 ("**the Application**").
2. The Application included, amongst other documents, the following: (i) copy notice to quit and AT6 together with proof of service; (ii) copy rent statement; and (iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003.

First Case Management Discussion

3. A Case Management Discussion ("**CMD**") was fixed for 18 May 2026. The Respondents did not attend and were not represented at the CMD. The Tribunal noted that Sheriff Officers had been unsuccessful in their attempts to serve papers on the Respondents in April 2026.
4. The note from the CMD records that having considered the submissions on behalf of the Applicant, the Tribunal decided that it was in the interests of justice to adjourn

the CMD to allow further time for the Applicant to clarify certain matters pertaining to the identity of the current tenants of the Property.

Subsequent Case Management Discussion

5. The Application called for a continued case management discussion on 27 October 2026 by teleconference. Notice of the date, time and location of the continued case management discussion had been competently served on the Second Respondent by Sheriff Officers on 08 September 2026 and by advertisement on the First and Third Respondents on 07 September 2026.
6. The Applicant was in attendance and was represented at the continued CMD by Ms Donnelly of TC Young Solicitors. The First Respondent, Ms Bradley, was in attendance at the continued CMD. There was no appearance at the continued CMD by or on behalf of the Second or Third Respondents. The Tribunal delayed the start of the continued CMD by 5 minutes to allow the Second and Third Respondents an opportunity to attend. The Tribunal's clerk confirmed that neither the Second Respondent nor anyone claiming to be the Third Respondent had been in contact with the Tribunal to explain that they wanted to attend at the continued CMD.
7. In advance of the continued CMD, the Applicant's representative and the First Respondent had sent further correspondence, documents and written submissions to the Tribunal all of which had been considered in advance by the Tribunal.
8. Following introductions and introductory comments by the Legal Member, Ms Donnelly was asked to confirm her client's position in respect of the Application. Ms Donnelly confirmed on behalf of the Applicant that he was seeking an eviction order to be granted today as the Applicant intended to live in the Property. Ms Donnelly explained that the reason that the Application had also been raised against the Second and Third Respondents was that there had been previous reference in correspondence to tenants plural at the Property and that the Applicant wished to preserve his position as a result.
9. Ms Bradley confirmed that she was the only tenant at the Property. She explained that the Second Respondent was one of her carers. She explained that whilst the Second Respondent had, together with her other carers, stayed at the Property each for two consecutive nights on rotation whilst caring for her, the Second Respondent was not a tenant.
10. The First Respondent confirmed that she was not living at the Property and that as a result, she had no objection to an eviction order being made in relation to the Property in order to draw a line under matters.
11. The Applicant had not given notice in terms of ground 1 of schedule 5 of the 1988 Act to the First Respondent prior to the commencement of the tenancy that this ground of eviction may be relied upon and, in the circumstances, seeks that the Tribunal dispenses with the requirement for said notice. An affidavit from the Applicant dated 30 September 2025 was produced in support of that request. That affidavit also outlined the background of his ownership of the Property, his current personal circumstances and his need to occupy the Property.
12. The Tribunal Members adjourned to discuss the Application in private and, on re-convening, confirmed that the eviction order sought would be granted.

Findings in Fact

13. The Applicant is the owner of the Property.
14. The Applicant entered into an agreement with the First Respondent to lease the Property. No written lease agreement was entered into. The lease started on 26 April 2014. No Form AT5 was served upon the First Respondent prior to the

agreement to lease the Property being entered into. As a result, the agreement to lease is an Assured Tenancy governed by the Housing (Scotland) Act 1988 (the "**1988 Act**").

15. The Applicant resided in the Property as his principal home before the Property was let. The First Respondent was made aware of this before the agreement to lease the Property was reached.
16. The Respondents were served with a valid notice to quit by letter dated 14 March 2025. In the said notice to quit, the Applicant gave notice to the Respondents that they would require to remove from the Property on or before 26 July 2025.
17. Further, on the same date, the Applicant served upon the Respondents Notice under Section 19 of the 1988 Act, commonly referred to as a form AT6, stating that possession was required of the Property on or before 26 July 2025 and intimated that recovery of possession was sought as the Applicant previously occupied the Property and wished to occupy the Property as his main home.
18. Notification was provided by the Applicant to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
19. The Applicant wishes to occupy the Property as his main home again.
20. The First Respondent does not live at the Property.
21. The First Respondent does not object to the order sought by the Applicant.

Reasons for Decision

22. In relation to dispensing with the requirement to provide notice of the ground of eviction prior to the commencement of the tenancy, having regard to the unchallenged evidence of the Applicant that he made the First Respondent aware that he had resided in the Property as his principal home before the Property was let and the Form AT6 served upon the Respondents on 14 March 2025 again referring to the ground, the Tribunal determined it was appropriate to dispense with the requirement for notice to have been given in advance of the tenancy agreement being agreed.
23. The Application proceeds upon Section 18 of the 1988 Act. Section 18 states:-

    "Orders for possession

    (1) The First-tier Tribunal shall not make an order for possession of a house let on an assured tenancy except on one or more of the grounds set out in Schedule 5 to this Act.

    …

    (4) If the First-tier Tribunal is satisfied that any of the grounds in Part I or II of Schedule 5 to this Act is established, the Tribunal shall not make an order for possession unless the Tribunal considers it reasonable to do so."

24. The Tribunal is satisfied that ground 1 in Schedule 5 of Part 1 of the 1988 Act has been made out and that the Applicant is entitled to rely upon this ground.
25. The issue for the Tribunal is to determine whether or not it is reasonable to grant the order.

26. The Tribunal was satisfied that it has sufficient information before it which was not in dispute between the parties to make a decision and the procedure had been fair.
27. As to reasonableness, the Tribunal considered the background to the Application, the supporting documentation lodged by the Applicant and First Respondent and the oral and written submissions on behalf of the Applicant and First Respondent at the continued CMD, specifically that the First Respondent was not living in the Property and that the request for an eviction order was not opposed.
28. As regards the Second and Third Respondents, they had been served with a copy of the Application and details of the continued CMD and had not attended in order to oppose the Application. The Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on their behalf.
29. Accordingly, the Tribunal was satisfied that it was reasonable in all of the circumstances to grant the eviction order.

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.

Serena Weir

27th October 2026

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Legal Member/Chair **Date**