



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/25/4011

Re: Property at 1/1 Inglewood Place, Edinburgh, EH16 6AR (“the Property”)

Parties:

Miss Janet Turnbull, 3A Moredun Park Street, Edinburgh, EH16 6AR (“the Applicant”)

Ms Kim Carroll, 1/1 Inglewood Place, Edinburgh, EH16 6AR (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (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 to grant an order for eviction.

Background

1. By application dated 18 September 2025 the applicant seeks an order for eviction relying on ground 11 (persistent delay in paying rent) and ground 12 (rent arrears) both in schedule 5 of the Housing (Scotland) Act 1988. The application was conjoined with application reference FTS/HPC/CV/25/4012 seeking an order for payment in respect of outstanding rent arrears.
2. The following documents were submitted with the application:
 - Pre action letters to the respondent
 - Form AT6 with proof of service
 - Notice to quit with proof of service

- Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
- Rent account from 1 November 2023

3. A case management discussion (“cmd”) was assigned for 16 April 2026.

Case management discussion – 16 April 2026- teleconference

4. The applicant was represented by Ms Callaghan, solicitor, TC Young. The respondent was not in attendance. The respondent had been served with papers by Sheriff Officers by letterbox delivery on 3 March 2026. The Tribunal was satisfied that that she had been properly notified of the cmd and proceeded in her absence.
5. Ms Callaghan stated that the tenancy had commenced on 1 September 2009. The tenancy agreement had not been submitted as the document had not been transferred to the letting agents when they acquired the business from the previous agents. Ms Callaghan stated that the tenancy was an assured tenancy agreement. The contractual tenancy had been terminated by service of a notice to quit on 3 April 2025 specifying the ish date of 1 September 2025. A form AT6 setting out grounds 11 and 12 had been served on the respondent on the same date.
6. Ms Callaghan sought an order for possession. She referred to the updated rent account which had been lodged in advance of the cmd. This showed that rent arrears had increased to £5,248.50. The rent account showed that payments were being made however they consistently fell below the amount due for monthly rent. The rent account had been in arrears since January 2024.
7. Ms Callaghan stated that monthly rent had initially been £625. It had been increased initially to £772.50. A further increase had taken effect on 1 April 2025 increasing the rent to £850 per month.
8. Ms Callaghan stated that the applicant had previously resided in the property. She owned no other rental properties and had decided to rent the property out

as part of her financial planning for retirement. There is a monthly mortgage outstanding over the property. The applicant relies on rental income to assist with mortgage repayments. Ms Callaghan stated that the applicant is 60 years old. The level of arrears was a source of stress. She intended to sell the property in the event that an order is granted.

9. Ms Callaghan referred to the pre-action correspondence that had been submitted. She stated that the letting agents had written to the respondent on 10 separate occasions seeking to discuss the arrears. She stated that the last contact from the respondent had been in August 2025 however she had not discussed the issue of rent arrears. She stated that the letting agents had also emailed the respondent on a number of occasions however she had failed to engage with them.
10. Ms Callaghan stated that the respondent was in her 30s and resided with her 4 children who were 15 years and under. The property was a 2 bedroom flat. Ms Callaghan stated that housing benefit had previously been paid however this had changed when the respondent commenced employment. The letting agent had previously requested direct payment of universal credit housing costs however this had been refused.

Findings in fact and law

11. Parties entered into an assured tenancy agreement with a commencement date of 1 September 2009.
12. Monthly rent due in terms of the agreement is £850.
13. A valid notice to quit and AT6 (notice of proceedings of possession) were served on the respondent on 3 April 2025.
14. The AT6 specified that the applicant intended to raise proceedings for eviction relying on grounds 11 and 12.

15. Rent arrears as at the date the application was submitted amounted to £4,723.50.
16. Rent arrears as at the date of the cmd amounted to £5,248.50.
17. The respondent has been in arrears of rent since January 2024.
18. The applicant's agents have made regular attempts to engage with the respondent to discuss her rent arrears.
19. The respondent has failed to respond to the applicant's agents' correspondence and emails.
20. The applicant owns no other rental properties.
21. The applicant rented the property out as part of her financial planning for retirement.
22. There is an outstanding mortgage over the property.
23. The applicant previously resided in the property.
24. The applicant is 60 years old and intends to sell the property.
25. The rent arrears have been a source of stress for the applicant.
26. The respondent has not submitted any written opposition to the application and did not attend the cmd to oppose the application.
27. The respondent resides with her 4 children.

Reasons for decision

28. Rule 17 (4) states:

The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

29. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

30. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

31. The Tribunal accepted Ms Callaghan's unopposed submissions relating to the commencement and duration of the lease in the absence of a written tenancy agreement.

32. The Tribunal was satisfied that the form AT6 which had been produced complied with the requirements of section 19 of the 1988 Act.

33. Ground 11 in schedule 5 of the Housing (Scotland) Act 1988 states that it is a ground for recovery of possession:

whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.

34. Ground 12 in schedule 5 of the Housing (Scotland) Act 1988 states that it is a ground for recovery of possession if:

Some rent lawfully due from the tenant—

(a) is unpaid on the date on which the proceedings for possession are begun; and

(b) except where subsection (1)(b) of section 19 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.

30. Section 18 of the 1988 Act further specifies:

(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.

(4A) In considering for the purposes of subsection (4) above whether it is reasonable to make an order for possession on Ground 11 or 12 in Part II of Schedule 5 to this Act, the First-tier Tribunal shall have regard, in particular, to]—

(a)]the extent to which any delay or failure to pay rent taken into account by the Tribunal in determining that the Ground is established is or was a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit, and

(b) the extent to which the landlord has complied with the pre-action protocol specified by the Scottish Ministers in regulations.

35. The Tribunal determined that grounds 11 and 12 were established in respect of the level and duration of rent arrears.

36. In relation to question of reasonableness the Tribunal determined that the applicant had complied with the pre-action requirements. The Tribunal made this determination taking into account the pre action requirements letters which had been produced and the oral submissions made at the cmd.

37. The Tribunal was satisfied that the arrears amounted to £5,248.50 as at the date of the cmd. The Tribunal accepted that the rent accounts that had been

submitted were accurate. The respondent had not lodged any information which sought to demonstrate that the arrears were in any part due to issues with benefits.

38. The Tribunal took into account the high level of arrears, which continued to rise. The Tribunal also gave weight to the fact that there had been no engagement by the respondent with the letting agents and she had made no contact with them since August 2025 despite regular correspondence asking her to get in touch to discuss the rent arrears issue.

39. The Tribunal took into account the applicant's personal circumstances and the ongoing financial and personal impact the rent arrears were having on her.

40. The Tribunal gave particular weight to the fact that the respondent had not taken any steps to oppose the application or lodge a defence.

41. The Tribunal gave weight to the fact that the respondent had resided in the property for over 16 years and that she lived with her 4 children. The Tribunal also gave weight to the fact that there had been no issues with the conduct of the tenancy until January 2024. The Tribunal considered that these were significant factors and had the respondent attended the cmd to oppose the application would have been given greater weight however, in the absence of any opposition to the application the Tribunal considered that on balance it was 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.

Mary-Claire Kelly

16 April 2026

Legal Member/Chair

Date