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/26/1302

Re: Property at 81 Belmont Avenue, Ayr, KA7 2ND ("the Property")

Parties:

The Governor and Company of the Bank of Ireland, 40 Mespil Road, Dublin, DO4 C2N4, Ireland ("the Applicant")

Mr Ian Lindsay Crossan, 81 Belmont Avenue, Ayr, KA7 2ND ("the Respondent")

Tribunal Members:

Alison Kelly (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the order for eviction should be granted.

Background

1. On 20th March 2026 the Applicant lodged an Application with the Tribunal under Rule 65 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 ("The Rules"), seeking an order to evict the Respondent from the property under Ground 2 of Schedule 5 of the Housing (Scotland) Act 1988.

2. Lodged with the application were: -

i. Copy Title Sheet;
ii. Form BB;
iii. Decree from Ayr Sheriff Court dated 6th February 2025 granting the Applicant the right to repossess the property;
iv. Copy Notice to Quit dated 21st November 2025;
v. Copy AT6 dated 21st November 2025;

vi. Proof of Service of the Notice to Quit and AT6;
vii. Section 11 Notice and proof of service.

3. The Applicant's solicitor explained in the application that a copy of the tenancy agreement was not available but that the tenancy commenced around 5th February 2008.

4. The Application was served on the Respondent by Sheriff Officers on 14th September 2026.

5. On 5th October 2026 the Tribunal received an email from the Respondent's representative containing a list of his medical conditions and medication.

Case Management Discussion

6. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Miss Beveridge of TLT, Solicitors. The Respondent was represented by Mr Tierney of Ayr Housing Aid Centre.

7. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules.

8. Miss Beveridge sought an order for eviction in terms of ground 2 of Schedule 5 of the Housing (Scotland) Act 1988. She said that she had had several discussions with Mr Tierney and the Respondent consented to the order being granted but was looking for an extension of time.

9. Mr Tierney said that the Respondent had been given and had accepted an offer of housing by the local authority and was at an advanced stage of packing. The local authority however could not provide a move in date yet as the keys had only just been handed back, and while no major refurbishment was required there was some work to be done to bring the property up to letting standard. Mr Tierney was seeking an extension of four months as he was concerned that in the run up to the Christmas period things would start to slow down at the local authority and the work might not be completed quickly. He said that he had discussed this with Miss Beveridge, she had taken instructions, and her clients were prepared to offer two months. Miss Beveridge confirmed that this was the case.

Findings in Fact

a. The Respondent entered into a Tenancy Agreement with Lesley Stewart in respect of the property;
b. The tenancy commenced on or around 5th February 2008;
c. On 6th February 2025 the Applicant was granted an order for possession of the property at Ayr Sheriff Court;

d. A Notice To Quit and AT6, dated 21st November 2025, was served timeously and correctly;
e. A section 11 notice was served on the local authority;
f. The Application was served on the Respondent by Sheriff Officer on 14th September 2026;
g. The Respondent has received and has accepted an offer of housing from the local authority;
h. The local authority cannot confirm a move in date.

Reasons for Decision

10. Ground 2 of Schedule 5 of the Housing (Scotland) Act 1988 states as follows*:*

The house is subject to a heritable security granted before the creation of the tenancy and—

(a)as a result of a default by the debtor the creditor is entitled to sell the house and requires it for the purpose of disposing of it with vacant possession in exercise of that entitlement; and

(b)either notice was given in writing to the tenant not later than the date of commencement of the tenancy that possession might be recovered on this Ground or the First-tier Tribunal is satisfied that it is reasonable to dispense with the requirement of notice.

11. The Tribunal is satisfied that the grounds have been met and, on that basis, coupled with the fact that the Respondent is consenting, is prepared to grant the order.

12. The Tribunal has also considered the request for extension to the time period before enforcement of the order can take place and has decided that it is reasonable to split the difference and allow a period of three months. The Tribunal accepts that work may slow in the run up to the festive period but does not consider that an extension of four months is required.

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.

Alison J Kelly 12 November 2026

Legal Member/Chair **Date**