

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 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”)

Chamber Ref: FTS/HPC/EV/25/3318

Re: Property at 77A Duke Street, Denny, FK6 6NS (“the Property”)

Parties:

AIM Housing Scotland Limited, 38 Camelon Road, Falkirk, FK1 5SH (“the Applicant”)

Ms Iman Taqwa Umm Sulaim, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Fiona Stephen (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. By application dated 1 August 2025, the Applicant sought an order for eviction under section 51 of the Act and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”). On 19 August 2025 the application was accepted by the Tribunal and referred to it for determination. This application has been conjoined with application FTS/HPC/CV/25/3319 which seeks a payment order relating to rent arrears.
2. A Case Management Discussion (CMD) was set to take place on 5 February 2026 at 10am by teleconference call.
3. Sheriff Officers attempted to serve the papers in this case together with intimation of the CMD on 17 December 2025. Sheriff Officers advised the Tribunal that they could not get access to the Property as the block of flats

within which the Property is situated were empty and undergoing renovation. The Applicant was informed. By email dated 13 January 2026 the Applicant advised the Tribunal that the Respondent was still living in the Property. The Applicant explained that Falkirk Council owned the other flats in the block and those were unoccupied due to being dangerous. The Applicant provided information received from Falkirk Council which confirmed this and which stated that the Respondent had refused to engage with Falkirk Council regarding allowing access to the Property for an inspection. The Applicant asked that service be re-attempted and the CMD arranged for 5 February proceed.

4. On 22 January 2026 the Applicant lodged submissions with the Tribunal together with an updated rent statement. The Applicant sought to increase the sum sued for in application FTS/HPC/CV/25/3319 to £8 750.00 and requested that this application be amended so as to add another ground on which eviction was sought. That was Ground 3 of Schedule 3 of the Act (Landlord intends to refurbish). The Applicant explained that the tenement (including the Property) was in very poor condition and in danger of partial structural collapse. The local authority determined that the roof-floor divides between the upper and lower flats suffered from mould and rot to the extent that they were in danger of collapse. In around April 2025 the local authority installed temporary protective measures to protect residents and installed temporary supporting beams. The local authority determined that the tenement was not suitable for habitation and removed its tenants from the other flats. The building standards department requested the Respondent to provide them with access to the Property repeatedly so they could carry out a thorough inspection to assess its condition. The Respondent refused. The Applicant repeatedly sought permission for access from the Respondent so that they could also inspect the Property but she refused.
5. The Applicants raised proceedings in the Tribunal seeking a right of entry order (FTS/HPC/RE/25/1027). On 19 August 2025 the Tribunal granted an order in terms of Section 28A(3) of the Housing (Scotland) Act 2006 to arrange a date and time to facilitate access. On 18 December 2025 the Tribunal determined to stop assisting the Applicant due to their failure to provide information. The Applicant explained that it intends to recover possession of the Property in order to carry out substantial refurbishment works which may require partial/entire removal and reinstatement of floor joists, complete redecoration and clearance of mould/rot. The Applicant was unable to determine the exact scope of works needed or instruct professional advisers to do so without having access to the Property. It would be impractical for the Respondent to continue to reside in the Property whilst those works were being done. The Applicant sought to amend the application to add ground 3 of Schedule 3 of the Act in terms of Rule 14 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the procedure rules) and Section 52 (5)(b) of the Act (erroneously referred to as section 53 (5)(b)).
6. On 23 January 2026 the Applicant was informed by the Tribunal that given appropriate notification of the CMD to the Respondent could not be arranged

in sufficient time prior to the CMD arranged for 5 February 2026, it had to be postponed.

7. On 26 May 2026 the Applicant submitted an application to the Tribunal requesting that service be made on the Respondent by way of advertisement. The Applicant explained that around 3 February 2026 they had received a Dangerous Building Notice under the Building (Scotland) Act 2003 from Falkirk Council. A copy of the notice dated 3 February 2026 was provided to the Tribunal. It states that the steps that must be taken are to "Repair, or replace, and make safe separating floor between no. 77A and 79A (Duke Street) under the supervision of a Chartered Structural Engineer". A copy of the notice was sent to the Respondent but she refused to move to alternative accommodation to allow urgent works to take place.
8. On 8 May 2026 decree was granted to the local authority to remove the Respondent from the Property on a temporary basis under the Building (Scotland) Act 2003. The Respondent was removed from the Property on 18 May 2026. The Applicant was unable to obtain details of the Respondent's address as the local authority would not disclose this due to data protection. The Tribunal granted the application for service by way of advertisement on 27 May 2026.
9. Service of the application by way of Advertisement was made on the Tribunal's website on 2 June 2026.
10. On 17 June 2026 the Tribunal received an email from the Applicant with further submissions. It stated that, notwithstanding that the Respondent had been removed from the Property, they still sought an eviction order given the Respondent could elect to return to the Property in terms of paragraph 9 of Schedule 5 of the Building (Scotland) Act 2003. The Applicant also sought to add a further ground of eviction to the application, that was Ground 11, Schedule 3 of the Act (breach of Tenancy agreement). That was based on breaches of Clauses 18 and 20 of the tenancy agreement relating to allowing access and clause 21 relating to antisocial behaviour. The Applicant also sought to amend the sum sought in FTS/HPC/CV/25/3319 to £10 625.00 being the sum now due in rent arrears.
11. The Tribunal had before it:
 - i. The Application Form E;
 - ii. A tenancy agreement between the Sonny Kareer and Respondent relating to the property dated 7 January 2022;
 - iii. Confirmation from the Scottish Landlord Register that the Property is registered in the name of the Applicant;
 - iv. Confirmation from Registers of Scotland that the Applicant purchased the Property on 30 September 2022; and
 - v. Case Papers.

Case Management Discussion

12. A CMD took place on 30 June 2026 at 10am by teleconference call. Mr Ackerley, Solicitor, Lindsays LLP appeared for the Applicant along with Ms Foster of the Applicant. There was no appearance by the Respondent although the Tribunal delayed the start of the CMD by a few minutes in case she appeared.
13. Mr Ackerley confirmed that the Applicant was seeking eviction on the basis of three grounds i.e. (i) that there were rent arrears of more than 3 months; (ii) the Applicant required to refurbish the property and (iii) the tenant had breached the tenancy agreement. In relation to FTS/HPC/CV/25/3319 the Applicant sought payment of £10 625.00 plus interest at 5% over base in terms of Clause 8 of the tenancy agreement.
14. The Tribunal noted that the tenancy agreement was in the name of Sonny Kareer and the Respondent dated 7 January 2022. Mr Ackerley explained that the Applicant purchased the Property in September 2022. In January 2025 the Applicant became aware that there was an issue with the Property. Falkirk Council advised that work was needing done. The Council owned 3 of the 4 flats in the building. The Applicant sought access to the Property but the Respondent refused. The Tribunal asked what the current state of play was with the building. Mr Ackerley confirmed that the required works have not started yet. The works will last approximately 12 weeks and then the Applicant will need to carry out further works to the Property which are likely to involve the walls, roof and internal works such as replacing the kitchen. The Applicant does not have a start date from the Council although it has asked for an update. There has been no contact with the Respondent. The information obtained from the Council confirms the condition of the Property.
15. Mr Ackerley confirmed the Applicant was looking for an order for payment of the rent arrears although would be prepared to reduce the figure by the number of months the Applicant has not been in the Property since her removal on 18 May i.e. 2 months. The Applicant has been unable to access the Property.
16. The Tribunal asked Ms Foster if she was able to give any further information about the Property. The Tribunal noted that work is underway in the Council flats but the Property cannot be accessed until another structural engineer inspects it, given it has been deemed unsafe. Once that happens then work will be needed to the floor and ceiling and to the walls and roof. The Property is on the first floor of the building and a Council flat is below on the ground floor. The Applicant expects to have to do work to the walls and other areas and redecorate. The Applicant will not know the extent of those works until their own structural engineer is able to get access. The Council are controlling the works given they served notice.

17. So far as the Respondent is concerned, Ms Foster stated that she had gone to the Property to give the Respondent a copy of the Dangerous Building Notice she had received. The Respondent did come to the door eventually but did not say anything. The Respondent had refused access in the past and she did not respond to emails. Ms Foster was not aware if the Respondent had any health issues. The Respondent was working when the Applicant acquired the Property. Ms Foster believed that the Respondent became unemployed at some point and tried to find other employment. Ms Foster is not aware of the Respondent's current employment position. The rent arrears have accumulated over time. The Respondent does not communicate although she is capable of doing so. Ms Foster was informed by the Council that they had to get a warrant from the court to remove the Respondent from the Property. Ms Foster was told there was an incident around that where the Respondent had engaged in violent behaviour. Ms Foster did not know more than that.
18. The Tribunal noted from Ms Foster that if an order for eviction is obtained then the structural and refurbishment works will be done. It is then the Applicant's intention to sell the Property.
19. The Tribunal adjourned to consider its decision. On reconvening, the Tribunal advised the Applicant that it had determined to grant the order for eviction on Grounds 12 and 3 of Schedule 5 of the Act. The Tribunal considered that it could not add Ground 11 to the order as that came late in the day and the information relating, in particular, to anti-social behaviour was not strong. A payment order for £9 875.00 in application FTS/HPC/CV/25/3319 together with interest would also be granted. A written decision in each application would be issued as soon as possible.

Findings in Fact

20. The Property was let to the Respondent under a Private Residential Tenancy Agreement between Sonny Kareer and the Respondent dated 7 January 2022;
21. The Applicant acquired ownership of the property on 30 September 2022 and, accordingly, acquired the Landlord's interest in the tenancy of the Property;
22. The agreed monthly rental for the Property was £375.00 which commenced on 7 January 2022;
23. The Applicant has competently served a notice to leave on the Respondent dated 21 March 2025 under ground 12 of Schedule 3 of the Act. Service was effected by email as provided for in the tenancy agreement. The notice became effective on 21 April 2025. The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act;
24. The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003;

25. As at the date of the Notice to leave the Respondent had been in arrears of rent for three or more consecutive months as required under ground 12 of Schedule 3 of the Act. She was in arrears of 15 months rent at that time which amounted to £5,625.00;
26. Arrears had started to accrue from 24 May 2024;
27. The amount of arrears at the date of the CMD was £10 625.00 as shown by the up-to-date rent statement provided by the Applicant;
28. The Applicant has agreed to reduce the amount of arrears sought to £9 875.00 to reflect a reduction in rent of 2 months as the Respondent was removed from the Property by the local authority on 18 May 2026;
29. Prior to raising this application, the Applicant sent a pre-action protocol letter to the Respondent on 29 June 2023. The Respondent did not respond;
30. The Applicant contacted the Respondent on a number of occasions, in addition to sending the pre-action protocol letter but the Respondent did not engage with the Applicant;
31. The Respondent is not paying the current rent and has made no payments or any offer to pay the arrears of rent;
32. The Respondent has not engaged with the Applicant;
33. The Respondent was living in the Property on her own;
34. The Respondent's personal circumstances are not known to the Applicant;
35. The Property is one of four flats in the building and is situated on the upper floor;
36. The remaining three flats in the building are owned by Falkirk Council;
37. In around January 2025, the Applicant was advised by Falkirk Council that there were issues with the Property;
38. Falkirk Council told the Applicant that their building standards department were contacted by Environmental Health/Housing about a dangerous separating floor at the Property;
39. The Building Standards department at Falkirk Council made repeated attempts to inspect the Property;
40. The Respondent refused to give access to the Property;

41. Falkirk Council served a Dangerous Buildings Notice dated 3 February 2026 on the Applicant under sections 29 and 30 of the Building (Scotland) Act 2003;
42. Said Notice required the Applicant to reduce or remove the danger constituted by a building;
43. The steps required as set out in the Notice are to “Repair, or replace, and make safe separating floor between 77A and 79 (Duke Street) under the supervision of a Chartered Structural Engineer”;
44. The works under the Notice were to be commenced on 10 February and completed by 24 February 2026;
45. The works could not commence due to the continued occupation of the Property by the Respondent;
46. On 8 May 2026, the Applicant was informed by Falkirk Council, Liaison and Enforcement that the local authority had obtained a decree from the court to remove the Respondent immediately from the Property for the duration of the remedial works which were expected to take 6-8 weeks;
47. The Respondent was removed from the Property under the decree on or around 18 May 2026;
48. The Applicant is unable to determine the exact scope of works needed or instruct its own professional advisers to do so without having access to the Property;
49. The Applicant is unable to access the Property until it has been inspected by a structural engineer;
50. The Applicant anticipates that work to the walls and roof and clearance of mould/rot will be required once the structural work needed has been completed;
51. The Applicant will have to undertake other refurbishment work including renovating/replacing the kitchen and redecoration and intends to do so;
52. Said works will be significantly disruptive to the Property;
53. It is impracticable for the Respondent to continue to occupy the Property given the nature of the refurbishment works required;
54. The basis for the order for possession on grounds 3 and 12 of Schedule 3 of the Act is established.

Reasons for Decision

55. The order for possession sought by the Applicant was based on grounds specified in the Act. Ground 12 of Schedule 3 of the Act was properly narrated in the notice to leave served on the Respondent. The Tribunal was satisfied that notice had been served in accordance with the terms of the Act and the Applicant is entitled to seek recovery of possession on that ground.
56. The order for possession sought by the Applicant based on Ground 3 of Schedule 3 of the Act was not included in the Notice to Leave. The Applicant sought to amend the application to add that ground in terms of Rule 14 of the procedure rules and Section 52 (5)(b) of the Act. The Respondent was aware of works needing done to the Property given that Falkirk Council first sought access to the Property around January 2025. Reference is made to paragraph 4 above. The Respondent was provided with a copy of the Dangerous Building Notice after it had been received by the Applicant in February 2026. In the circumstances, the Tribunal grants permission for this ground to be included in the application as a basis on which an eviction order is sought. The Applicant is entitled to seek recovery of possession on that ground.
57. The Applicant sought permission to add a further ground (Ground 11 of Schedule 3 of the Act) to the application on the basis that the Respondent has breached Clauses 18, 20 and 21 of the tenancy agreement. That request was made on 17 June 2026. The Tribunal did not consider it reasonable to add a further ground to the application at this late stage and refused to do so. In any event the information regarding anti-social behaviour was not strong and there are sufficient other grounds on which this application proceeds.
58. The Tribunal accepted the evidence provided by the Applicant with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. Since May 2024 the Respondent has failed to pay the full rent as it fell due and significant arrears have accrued. The last payment made by the Respondent was on 24 May 2024. Since that date no payments have been made.
59. The Tribunal was satisfied that the Respondent has been in arrears for a period far in excess of three consecutive months. The Tribunal accepted the unchallenged evidence of the Applicant relating to the arrears. The Tribunal accepted that the Applicant made appropriate attempts to encourage the Respondent to deal with the arrears. The Applicant has fully complied with the relevant provisions of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
60. The ground for eviction based on rent arrears is established.
61. The Tribunal accepted the evidence provided by the Applicant in relation to the repairs required to the Property. This was supported by correspondence from the local authority which was produced. The Tribunal considered it significant that a Dangerous Building Notice had been served by the local

authority and that the Respondent had to be removed from the Property under court order to allow necessary works to the Property to make it safe.

62. The Tribunal accepted the evidence of the Applicant that it will need to undertake refurbishment works, which will be significantly disruptive, to the Property once the structural works have been completed and that it would be impracticable for the Respondent to continue to occupy the Property given the nature of those works. Indeed it would be unlawful for the Respondent to occupy the Property during the works required by the Dangerous Building Notice.
63. The ground for eviction based on the Applicant's intention to refurbish is established.
64. Since 7 April 2020, in terms of changes made initially by the Coronavirus (Scotland) Act 2020 and then by the Coronavirus (Recovery and Reform) (Scotland) Act 2022, an eviction order on grounds 3 and 12 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
65. The Tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the Tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson [1942] 2 All ER 653 at 655* in which Lord Green MR said in an often quoted passage:
- "In considering reasonableness...it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad common sense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account."*
66. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and weigh the various factors which apply to the parties.
67. In this case the Tribunal finds it is reasonable to grant the order. The balance of reasonableness is weighted toward the Applicant for the following reasons:
68. The level of arrears is extremely high and it is unlikely that the arrears will be paid. The Respondent is making no attempt to meet the current rent or arrears of rent. The Respondent has made no attempt to engage with the Applicant despite reasonable attempts to do so. It is not known why the

Respondent stopped paying the rent in May 2024 and she has provided no explanation for this although she has had ample opportunity to do so.

69. The Respondent has repeatedly denied the Applicant (and indeed the local authority) access to the Property at a time when it became clear that there were safety concerns with the Property and other flats in the building. The local authority required to take steps to serve a Dangerous Building Notice on the Applicant. The Respondent continued to refuse to engage resulting in the local authority having to take steps to have her forcibly removed. The Applicant has not yet been able to take access to the Property. Significant works are required to the Property. These are highly significant factors which weigh in favour of the Applicant.

70. The Respondent has not engaged with the Tribunal process despite having an opportunity to do so.

71. The Tribunal decided to exercise the power within rule 17 of the procedure rules and determined that a final order should be made at the CMD.

Decision

The Tribunal makes an order for eviction of the Respondent, Ms Iman Taqwa Umm Sulaim from the Property at 77A Duke Street, Denny, FK6 6NS

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.

Fiona Stephen

**Fiona Stephen
Legal Member/Chair**

**30 June 2026
Date**