



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 (“the 1988 Act”) and Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/EV/25/1121

Re: Property at 38 Polnoon Avenue, Glasgow, G31 3HB (the Property)

Parties:

Landmark Mortgages Limited, Admiral House, Harlington Way, Fleet, GU51 4YA (the Applicant)

TLT LLP, 41 West Campbell Street, Glasgow, G2 6SE (the Applicant’s Representative)

Ms Aerin Carroll, 38 Polnoon Avenue, Glasgow, G31 3HB (the Respondent)

Tribunal Members:

Ms. Susanne L. M. Tanner K.C. (Legal Member)
Mr. David Fotheringham

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”):

- (i) was satisfied that Ground 2 in Part II of Schedule 5 to the 1988 Act were established by the Applicant, in that the Property 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 Applicant as creditor is entitled to sell the Property and requires it for the purpose of disposing of it with vacant possession in exercise of that entitlement; and (b) the tribunal is satisfied that it is reasonable to dispense with the requirement of notice in writing to the tenant not later than the date of commencement of the tenancy that possession might be recovered on this Ground;**

- (ii) was satisfied that it was reasonable to make an order for possession, with the date for enforcement delayed until 5 October 2025; and
- (iii) made an order for possession in terms of Section 18(3) of the 1988 Act, with the date for enforcement delayed until 5 October 2025.

The decision of the tribunal was unanimous.

Reasons

Procedural Background

1. The Applicant's Representative made an application to the tribunal on 12 March 2025 in terms of Section 18 of the Housing (Scotland) Act 1988 (the 1988 Act) and Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules).
2. The Applicant seeks an order for possession of the Property in terms of Section 18 of the 1988 Act under Ground 2 of Schedule 5 to the 1988 Act, in summary that the Property is to be sold by the lender. The basis of the Application is in the paper apart to section 5 of the Application.
3. The Applicant's Representative lodged with the Application:
 - 3.1. Paper apart;
 - 3.2. Copy Title GLA127463;
 - 3.3. Copy decree for possession;
 - 3.4. Copy Notice to Quit dated 8 November 2024 and proof of delivery;
 - 3.5. Copy Section 11 Notice and email to local authority; and
 - 3.6. Copy Form BB.
4. The tribunal's administration obtained the Title Sheet for the Property which shows that Northern Rock plc were the heritable creditors of the Property.
5. The Application was accepted for determination by a tribunal. Both parties were notified by letters dated 19 June 2025 of the date, time and place of Case Management Discussion (CMD) in relation to the Application on 6 August 2025 at 1400h by teleconference. The Respondent was invited to make written representations in response to the Application by 10 July 2025. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order. The parties were also advised that if they do not attend the CMD this will not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The

Application paperwork and notification was served on the Respondent by Sheriff Officers.

6. The Respondent did not submit any written representations in response to the Application.

Case Management Discussion (CMD) 6 August 2025, 1400h: Teleconference

7. Mr Oswald, Solicitor from the Applicant's Representative attended on behalf of the Applicant.
8. The Respondent, Miss Carroll, attended with a supporter, Ms Saeed, a support worker.

Respondent's submissions

9. The Respondent, Miss Carroll, stated that she does not oppose the Application. She said that when she received the repossession order, she applied to a number of local housing authorities for suitable alternative accommodation. As yet she has not had offers from any of them. She said that she was made redundant in May 2023. She said that this housing situation has had a big impact on her mental health. She has been allocated a support worker as a result of her anxiety. Every time she has received a letter about the housing situation she has sent it to all authorities she has applied to for housing. She has not managed to secure new employment. This house situation has taken over and she feels as if she has been going round in circles. She is in receipt of benefits (sickness benefits). She said that she has signed up for alerts on private housing as well. The local authorities have told her that they do not class her as homeless until she gets an eviction order. She said that she does not seem to have any priority at the moment. She has spoken to the housing departments, emailed and filled out forms.
10. Miss Carroll said that her 19 year old daughter lives full time with her in the Property. She is at college and will be starting the new academic year on 18 or 19 August 2025. She said that her daughter is intending to live with her for the next academic year and does not have anywhere else to live.
11. Miss Carroll said that she did not know that if an order for possession is made it could be enforced in 30 days. She does not think that would be long enough to find alternative housing for her and her daughter and to move. She said that now that she has a support worker she is hoping that will help with the housing situation. She is looking for more time to be able to contact the authorities if an order is made.

Applicant's Representative's submissions

12. Mr Oswald invited the tribunal to make an order for possession on the basis of all the material before it; and he submitted that it was reasonable to do so at today's CMD. He said that the court order was made in February 2023. He said that the Respondent has had sufficient time to secure alternative accommodation since then. He submitted that perhaps granting an order might actually affect that process. He said that the Applicant has a mortgage over the property. The balance currently owed is over £120,000. There have been no payments to the account since October 2020. He appreciates that that is not the Respondent's fault. However, the Applicant cannot realise the proceeds while the property remains tenanted. He said that he does not have instructions on agreeing to a longer period of time for enforcement but that if the tribunal is minded to allow further time to delay enforcement he is in the tribunal's hands.

Respondent's further submissions

13. Miss Carroll said that she had uploaded every legal document to her current applications and could prove when that had been done. She reiterated that according to the councils she was not classed as homeless. She said that she is hoping that if she gets an extension she can make appointments to speak to them and find alternative accommodation.
14. The tribunal adjourned to deliberate.

15. The tribunal makes the following findings-in-fact:

- 15.1. Andrew Dennis Fallen and Roisin Brodie McGinlay are the registered proprietors of the Property.
- 15.2. Andrew Dennis Fallen and Roisin Brodie McGinlay (the Landlords) granted a security in favour of Northern Rock plc which was registered on 19 January 2007.
- 15.3. The Applicant is now the heritable creditor of the Property.
- 15.4. There is a current arrears balance on the mortgage of around £120,000.
- 15.5. The Landlords entered into an assured tenancy with the Respondent in or around 2016.
- 15.6. The tenancy documentation cannot now be found.

- 15.7. The Applicant obtained a decree entitling them to enter into possession and sell the let Property.
- 15.8. On 25 April 2024 the Applicant wrote to the Respondent advising that the Applicant had obtained a decree but were willing to allow the Respondent some time to secure alternative accommodation and to leave the Property voluntarily.
- 15.9. On 3 June 2024, the Applicant allowed the Respondent an additional month to vacate.
- 15.10. On 25 September 2024, the Respondent informed the Applicant that she was attempting to secure alternative accommodation but would not be accepted as homeless until the termination of the tenancy.
- 15.11. On 8 November 2024, the Applicant's Representative issued a Notice to Quit to the Respondent.
- 15.12. More than two months' notice was provided to the Respondent.
- 15.13. The Applicant requires vacant possession of the Property to enforce the decree in their favour entitling them to enter into possession and sell the let Property.
- 15.14. The Respondent was made redundant in or around 2023.
- 15.15. The Respondent is currently in receipt of benefits.
- 15.16. The Respondent suffers from anxiety and has a support worker.
- 15.17. The Respondent lives in the Property with her 19 year old daughter who is a full time college student.
- 15.18. The Respondent has taken steps to find suitable alternative accommodation for her and her daughter in the social housing sector and requires further time to do so once an order for possession has been granted.

Discussion

16. The application for an order for possession was not opposed but the Respondent sought additional time once any order for possession was granted to secure suitable alternative accommodation for her and her adult daughter who resides with her.
17. The tribunal was satisfied on the basis of the findings in fact that Ground 2 in Part II of Schedule 5 of the Act are established. The tribunal proceeded on the basis that there is an assured tenancy which began in or around 2016. There was no confirmation that the Respondent had been notified prior to the start of the tenancy that possession may be recovered on this Ground. The tribunal decided that it was reasonable to dispense with the requirement of notice in the circumstances.
18. The tribunal considered that in all the circumstances, it was reasonable to make an order for possession but to defer enforcement until 5 October 2025.
19. The tribunal therefore made an order for possession in terms of Section 18(3) of the 1988 Act, with the date for enforcement deferred to 5 October 2025.

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.

Ms. Susanne L. M. Tanner Q.C.
Legal Member/Chair

Date: 6 August 2025