



**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”)**

Chamber Ref: FTS/HPC/EV/24/5269

Re: Property at 4 Iona Place, Coatbridge, Lanarkshire, ML5 2LE (“the Property”)

Parties:

**Intrum Mortgage UK Finance Limited, Belvedere, 12 Booth Street, Manchester,
M2 4AW (“the Applicant”)**

**James Risk, Patricia Risk, 4 Iona Place, Coatbridge, Lanarkshire, ML5 2LE; 4
Iona Place, Coatbridge, Lanarkshire, ML5 2LE (“the Respondent”)**

Tribunal Members:

Alastair Houston (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession be made in favour of the Applicant on the basis of paragraph 2 of schedule 5 of the 1988 Act.

1. Background

- 1.1 This is an application under rule 65 of the Chamber Rules whereby an order for recovery of possession was sought by the heritable creditor in whose favour a standard security had been granted by a landlord. The application was accompanied by, amongst other things, copies of two pages of a document purporting to be an assured tenancy agreement to which the Respondent was party, a Form AT6, a notice to quit served by the Applicant and a decree issued by the Sheriff Court in favour of the Applicant authorising them to exercise the rights remedies a creditor is entitled to exercise on a default within the meaning of Standard Condition 9(1)(a) of Schedule 3 of the Conveyancing and Feudal Reform(Scotland) Act 1970 (“the 1970 Act”).

1.2 A Case Management Discussion had taken place on 16 June 2025. At that Case Management Discussion, the Tribunal had identified a potential issue with the Application due to the terms of section 18(6) of the 1988 Act and section 20(5) of the Conveyancing & Feudal Reform (Scotland) Act 1970 and the Applicant's ability to serve notice to terminate an ongoing contractual assured tenancy between the parties. The Application had been appointed to a hearing with a direction issued to the parties to lodge any legal submissions and a full copy of the written tenancy agreement, should it be available.

1.3 Following the Case Management Discussion, the Respondents provided a full copy of the written tenancy agreement. Written submissions were received from the Applicant.

2. The Hearing

2.1 The Hearing took place on 15 December 2025 by teleconference. The Applicant was represented by Mr Mark Oswald, solicitor. The Respondents were neither present nor represented. The Tribunal noted that it did not hold a telephone number nor an email address to contact the Respondents.

2.2 The Applicant's representative confirmed that the Application was insisted upon. The Tribunal noted that intimation of the hearing had been given to the Respondents on 31 October 2025. In the absence of any reason as to why they were not in attendance, the Tribunal considered it appropriate to proceed in their absence, as permitted by Rule 29 of the Chamber Rules.

2.3 The Applicant's representative adopted his written submission. The tenancy agreement made provision for the assured tenancy to be brought to an end on the basis of ground 2 of schedule 5 of the 1988 Act. Notice had therefore been given to the Respondents that possession may be recovered on this ground. The Tribunal could therefore make an order for possession on this basis irrespective of whether there was an ongoing contractual tenancy. There had been no contact with the Respondents since the Case Management Discussion. It was believed that they still resided at the Property. The Applicants was due a sum in excess of £90,000.00. The Property was subject to a standard security and the Sheriff Court had authorised its sale by the Applicant. No rent was being received from the Respondents as the Applicant did not wish to step into the shoes of the landlord. No payment had been made by the landlord since June 2023. The most realistic way the Applicant would recover the sum due to them would be by offering the Property for sale with vacant possession.

3. Reasons For Decision

3.1 There was no factual dispute between the parties necessitating the hearing of evidence to determine the Application. The Tribunal made its decision based on the submissions heard at the Hearing and all material lodged in advance of 15 December 2025.

3.2 Paragraph 2 of the schedule 5 of the 1988 Act is in the following terms:-

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.

The Property was subject to a heritable security. The Applicant was entitled to sell the Property by virtue of a decree issued by Airdrie Sheriff Court dated 5 October 2023. The written tenancy agreement between the parties gave notice to the Respondents that possession may be recovered on this ground.

3.3 Section 18(6) of the 1988 Act is in the following terms:-

(6)The First-tier Tribunal shall not make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, unless—

(a)the ground for possession is Ground 2 ... in Part I of Schedule 5 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9 ... Ground 10, Ground 15 or Ground 17; and

(b)the terms of the tenancy make provision for it to be brought to an end on the ground in question.

Whilst an issue had earlier arisen as to whether there was an ongoing contractual tenancy between the parties, as the Respondents had provided a copy of the written agreement which demonstrated that the said agreement did make provision for possession to be ordered on the basis of Ground 2, the Tribunal did not require to consider this issue further. An order could be competently made.

3.4 The only issue for the Tribunal to determine was whether it was reasonable to grant the order sought. The Tribunal considered the whole circumstances in which the Application was made. The Applicant was due a significant sum of money which was the subject of a heritable security. No payments had been made in respect of the sum secured since June 2023. Although this situation was not of the Respondents' making, the

Applicant would be best placed to recover the sums due if they were able to take vacant possession. In the absence of any representations as to the Respondents' circumstances, the Tribunal considered it reasonable to grant the order sought. Given the upcoming festive period, the Tribunal considered it appropriate to slightly delay enforcement of the order until 26 January 2026.

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.

Alastair Houston

Legal Member/Chair

15 December 2025
Date