

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 16 of the Housing (Scotland) Act 2014 and Section 18 of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/EV/26/1271

Re: Property at 16 Kerelaw Avenue, Stevenston, KA20 4EH (“the Property”)

Parties:

Yorkshire Building Society trading as Chelsea Building Society, Yorkshire House, Yorkshire Drive, Bradford, BD5 8LJ (“the Applicant”) and

Ascent Legal Scotland, 319 St, Vincent Street, Glasgow, G2 5RZ (“the Applicant’s Representative”) and

Mr Raja Iftikhar Ali, 16 Kerelaw Avenue, Stevenston, KA20 4EH (“the Respondent”) and

CHAP, Michael Lynch Centre for Enterprise, 71 Princes Street, Ardrossan, KA22 8DG (“the Respondent’s Representative”)

Tribunal Members:

G McWilliams- Legal Member

E Williams - Ordinary Member

Decision:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant the Application.

Background and Case Management Discussion on 21st September 2026

1. The Respondent Mr Ali entered into a short-assured tenancy agreement with Mr R Neil in July 2017. Mr Neil defaulted in his mortgage payments to the Applicant, Yorkshire Building Society trading as Chelsea Building Society, who obtained a Decree to enter into possession of the Property, and sell it, at Kilmarnock Sheriff Court on 23rd October 2024. The Applicant, through their Representative, served a Notice to Quit the Property as well as a Notice in respect of their intention to raise proceedings for possession of the Property on the Respondent, on 5th September 2025. The Applicant’s Representative submitted this Application to the Tribunal on 5th March 2026.

2. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 10am on 21st September 2026. The Applicant's Representative's Mr S Docherty as well as the Respondent's Representative's Ms L Mathieson attended.
3. Mr Docherty referred to the Application papers and stated that the Applicant wishes to have an eviction order granted. He said that the mortgage account debt due to the Applicant is continuing to rise due to the passage of time since a Calling Up Notice was served in June 2024.
4. Ms Mathieson referred to her email sent to the Tribunal's office in advance of the CMD. She stated that the Respondent Mr Ali, his wife and their three children, aged 13,12 and 7 have applied for a social housing tenancy to two local authorities. She said that she is assisting them in this regard. Ms Mathieson stated that the Respondent and his family wish to be given further time to obtain another tenancy.
5. After discussion with the Tribunal, Mr Docherty and Ms Mathieson agreed that it would be fair and reasonable for an eviction order, with a deferred enforcement date of 16th November 2026, to be granted.

Findings in Fact and Law

6. The Applicant, Yorkshire Building Society trading as Chelsea Building Society, is entitled to recover possession of the Property, and to sell it, as a result of the mortgage default of Mr R Neil, and in terms of a Court Decree dated 23rd October 2024.
7. The ground upon which the Application proceeds, namely Ground 2 in Schedule 5 to the Housing (Scotland) Act 1988 ("the 1988 Act") is satisfied. It is reasonable that an order for possession is granted.
8. The Respondent, Mr Ali, and his family require an appropriate period of time to arrange to move out of the Property, in which they have resided since 2015, and obtain another tenancy. They have applied for social housing.
9. It is also reasonable that the order for possession is not enforced before 16th November 2026 given that Mr Ali and his family are actively seeking to obtain another tenancy.

Reasons for Decision

10. Section 16 of the Housing (Scotland) Act 2014 provides as follows:

"16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

- (a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),
- (b) a Part VII contract (within the meaning of section 63 of that Act),
- (c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

11. Accordingly, the Tribunal now has jurisdiction in relation to claims by an Applicant, such as Yorkshire Building Society trading as Chelsea Building Society, against a tenant Respondent, such as Mr Ali, for possession of a property which has been subject to a tenancy agreement, such as the tenancy agreement between Mr Neil and Mr Ali.
12. In terms of Section 18 of the 1988 Act the Tribunal shall not make an order for possession of a house let on a tenancy except on one or more of the grounds set out in Schedule 5 to the 1988 Act.
13. Ground 2 in Schedule 5 to the 1988 Act provides that it is an eviction ground that, regarding a property which is subject to a heritable security granted before the creation of the tenancy, as a result of a default by the security debtor the creditor is entitled to sell the house and requires vacant possession to exercise that entitlement and it is reasonable to dispense with the requirement of notice having been given to the tenant of the property, not later than the date of commencement of the tenancy, that possession might be recovered on that Ground..
14. The Tribunal considered all of the available evidence and oral submissions.
15. Having considered and weighed the available evidence, and taken account of the submissions of Mr Docherty and Ms Mathieson, the Tribunal found in fact, on a balance of probabilities, that Mr Neil was in mortgage default. They found that the Applicant, Yorkshire Building Society trading as Chelsea Building Society, is entitled to recover possession of the Property, and to sell it. The Tribunal further found that the Respondent, Mr Ali, and his family require an appropriate period of time to arrange to move out of the Property, in which they have resided since 2015, and obtain a social housing tenancy.
16. Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the 2017 Rules") provides that the Tribunal may do anything at a CMD which it may do at a Hearing, including making a decision. Having made the above findings in fact, the Tribunal found in law that Ground 2 in Schedule 5 to the 1988 Act is met and that it is reasonable that the Applicant, Yorkshire Building Society trading as Chelsea Building Society, is granted an order to recover the Property and sell it after a suitable period of time, until 16th November 2026, has been given to the Respondent, Mr Ali, and his family, to move out of the Property and obtain a social housing tenancy.

Decision

17. The Tribunal grants an order for Yorkshire Building Society trading as Chelsea Building Society's possession of the Property at 16 Kerelaw Avenue, Stevenston, KA20 4EH with a deferred enforcement date of 16th November 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.

G McWilliams

Tribunal Legal Member

21st September 2026

Date