



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/25/5547

Re: Property at Honeywood, 3 Manse Place, Slamannan, Falkirk, FK1 3EN (the Property)

Parties:

Bank of Scotland, The Mound, Edinburgh, EH1 1YZ (the Applicant)

Aberdein Considine LLP, Solicitors, 18 Waterloo Street, Glasgow, Scotland, G2 6DB (the Applicant’s Representative)

Mr Nicholas Gallacher, Honeywood, 3 Manse Place, Slamannan, Falkirk, FK1 3EN (the Respondent)

Tribunal members:

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

Ms. Elaine Munroe (Ordinary Member)

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 was established by the Applicant, in that (a) the Property is subject to a heritable security granted before the creation of the tenancy; and 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) it is reasonable to dispense with the requirement of notice 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 11 December 2026; and**

- (iii) **made an order for possession in terms of Section 18(3) of the 1988 Act, with the date for enforcement delayed until 11 December 2026.**

The decision of the tribunal was unanimous.

Reasons

Procedural Background

1. On 23 December 2025, the Applicant's Representative made an application to the tribunal 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).
2. The Applicant seeks an order for possession under ground 2 of Schedule 5 to the 1988 Act, namely that the let Property is to be sold by the mortgage lender. The mortgage lender obtained decree for repossession against the mortgage customer (landlord) dated 30 January 2025.
3. The Applicant's Representative lodged documents with the Application:
 - 3.1. Copy Extract Decree dated 4 December 2024;
 - 3.2. Copy AT6 dated 12 September 2025 and Sheriff Officer Execution of Service on the Respondent on 16 September 2025;
 - 3.3. Letter from Gary J Hunter to Applicant's Representative (undated)
 - 3.4. Copy Section 11 Notices to Local Authority dated 9 October 2024 with Notices by Creditor and proof of service by email; and
 - 3.5. Form BB to Occupier dated 13 March 2024.
4. The Application was accepted for determination by the tribunal. A Case Management Discussion (CMD) teleconference was fixed for 29 July 2026 at 1400h.
5. The tribunal sent the Application paperwork and letters of notification dated 24 June 2026 to all parties with the date, time and arrangements for joining the CMD in relation to the Application. The Respondent was invited to make written representations in response to the Application by 15 July 2026. 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 would 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.

6. Service of the Application paperwork and notice of the CMD on the Respondent at the Property was by Sheriff Officers on 26 June 2026.
7. On 15 July the tribunal's administration received a handwritten letter from the Respondent dated 14 July 2026, which was scanned into the tribunal's Case Management System. A copy of the scanned letter was sent by email to the Applicant's Representative and to the tribunal.
8. A Case Management Discussion took place over two days, on 29 July 2026 at 1400h and 11 September 2026 at 1000h, by teleconference.

CMD: 29 July 2026, 1400h, Teleconference

9. Ms MacDonald, solicitor from the Applicant's Representative, attended.
10. The Respondent, Mr Gallacher, attended. The Respondent disconnected from the teleconference on multiple occasions during the CMD but rejoined on each occasion and was present at the conclusion of the CMD.

Applicant's Representative's submissions

11. Ms MacDonald stated that she was instructed to move for an order for possession to be made that day in the usual terms.

Respondent's submissions

12. The Respondent sought an adjournment of the CMD to another date to seek legal, or housing advice. He referred to the letter he sent which was received by the tribunal on 15 July 2026.
13. He said that he had only recently become aware of the proceedings to seek possession of the Property when the Application paperwork was served.
14. The tribunal asked the Respondent questions in relation to paperwork in the Application bundle relating to service of documents on him; any steps taken by him to seek legal or housing advice after he became aware of the case prior to requesting an adjournment; and any steps to seek alternative housing in the private sector or with the local authority.
15. The Respondent denied that he had seen the Form BB dated 13 March 2024 (bundle, page 8) before he received the Application paperwork and suggested that

the landlord may have picked it up when he collected mail from the Property. He stated that he has not heard from the landlord since 11 July 2024 when the landlord was arrested. He stated that prior to that he used to see the landlord every three months or so.

16. However, the Respondent accepted that the AT6 (bundle, pages 12-16) was served on him at the Property by Sheriff Officers on 16 September 2025.
17. The Respondent stated that he understands that the house has been repossessed by the lender and that they wish to sell it.
18. The Respondent stated that he had not sought any legal, or housing advice until 'about a week ago' when he spoke to Shelter Scotland. He stated that it was a couple of days after he made his submission to the tribunal (see above). He has had two telephone calls with Shelter. He stated that they had told him they could offer a telephone consultation for advice but did not offer in-person advice sessions. The Respondent stated that he was not happy with this as he wished to attend in person with his documents. The Respondent stated that he has not taken any further steps to take advice this week as he has been busy working. He stated that he works full time in a self-employed capacity and would find it difficult to take time off work for a consultation, unless he booked leave.
19. The Respondent stated that he is hoping to get a consultation with Citizens Advice in the next 48 hours (by 31 July 2026).
20. The Respondent was asked by the tribunal whether he has sought alternative housing. He stated that he has spoken to the council in an initial call and has an allocated housing officer. He has been told that if he wishes to apply for council housing he needs to make an application but he has not yet done so.
21. The Respondent stated that he is looking for housing in the private rented sector and has registered with agents but has not found anything because prices have rocketed and are more than the £700 which he is currently paying. The Respondent did not provide any further details during the CMD.
22. The Respondent stated that he has no rent arrears. He referred to the letter from Mr Gary J Hunter (bundle, page 17) and said he takes issue with almost everything in the letter. The Respondent stated that he pays £700 per calendar month in rent. He stated that he originally paid this in cash to the landlord or the agent but that he now pays by standing order to the landlord's agent. When asked who the agent is, the Respondent stated: 'G J Hunter'. The Respondent stated that the landlord disclosed to him in 2022/23 that the landlord was not making mortgage payments to his lender.

23. The Respondent stated that he lives in the Property on his own. It is a three bedroomed detached property in Falkirk. The Respondent works for himself as a sub-contractor. He works in and around Falkirk, Stirling and the Lothians.
24. The Respondent stated that an order for possession granted today, with a delay in execution of an additional eight weeks, would be of assistance to him in seeking alternative housing. He then changed position back to requesting an adjournment to seek legal or housing advice. He stated that he would contact Citizens Advice Bureau to see if they offer in person appointments and if they do not he is going to instruct a solicitor. He stated that he will take a day's leave to attend an in person appointment.

Applicant's Representative's submissions

25. Ms MacDonald opposed the Respondent's request for an adjournment. She stated that the tenant has been well aware of the proceedings for a significant period of time. She referred to the BB Form which was served in March 2024 and the AT6 which was served in September 2025.
26. Ms MacDonald stated that she has attempted to contact the Respondent on multiple occasions and has sent correspondence directly to him but he has not made any contact in response until last week. She stated that last week, the Respondent offered to make rent or mortgage payments to the lender. Ms MacDonald told the Respondent that the Applicant is a heritable creditor of the landlord and that as the Respondent is not a party to the loan agreement they cannot accept mortgage payments from him; and that the lender does not wish to become a landlord for the property as they have secured an order for repossession to sell the property for the benefit of the landlord's creditors.
27. Ms MacDonald stated that she has had contact with the landlord and the lender in relation to the case and that their version of events differs from that outlined by the Respondent today. She has been told that the Respondent had arrears of £7,700 as at March 2025. Ms MacDonald stated that the landlord attempted to sell the Property last year and had an offer accepted but that the sale fell through because the Respondent refused to remove from the Property.
28. Ms MacDonald stated that her primary position was to seek an order for possession today in the usual terms but that if the tribunal was minded to delay execution in enforcement, the lender would agree to a short extension up to a total of three months from the date of the order.

Further procedure at CMD on 29 July 2026

29. The tribunal adjourned to consider parties' submissions and all the information before it.
30. The tribunal decided to adjourn the case on the opposed motion of the Respondent but recognising that given the time which has passed since the Respondent became aware of the lender's proceedings to recover possession (at least by the date of service of the AT6 in September 2025, if not earlier) there is prejudice to the Applicant by further delay, the adjournment will only be for a short time. The tribunal will allow an additional two weeks to allow the Respondent further time to obtain whatever legal or housing advice he wishes and to appoint a representative if he wishes to do so; and to lodge any written defence to the Application, by 12 August 2026.
31. The tribunal stated it would issue a Direction to the Respondent requiring him to provide details of the organisation(s), or solicitor(s) he seeks advice and assistance from and the dates; to provide details of any representative he appoints, to produce any written defence to the Application; with documents and authorities referred to; to provide evidence of housing applications to the local authority and in the private rented sector; and to evidence rent payments for the Property, all no later than 12 August 2026.
32. The Respondent was asked if he wished to provide his email address and consent to that method for tribunal communications. He initially said that he would provide the email address and then said to the tribunal clerk that he did not want to provide it and stated that he wished all papers in relation to the Application to be posted in hard copy.

Outcome of CMD on 29 July 2026

33. The CMD was adjourned to 11 September 2026 at 1000h by teleconference. The tribunal's administration then fixed the adjourned CMD for 11 September 2026 and joining instructions were notified to parties by the tribunal's administration.
34. The tribunal issued a Direction to the Respondent in the terms outlined in the first CMD, as explained further below.

Direction dated 29 July 2026

35. By its Direction of 29 July 2026, the tribunal required the Respondent, having taken any legal or housing advice he wished, to provide the following to the tribunal's administration, no later than 12 August at 12 noon:
- 35.1. Names of the organisations, or solicitors from which he has sought and / or received legal or housing advice or assistance in respect of the Application, and the dates of any consultations, in person or on the telephone (the content of any advice received does not need to be disclosed).
 - 35.2. The full name and contact details of any representative appointed to represent him in these proceedings.
 - 35.3. A written submission which clearly outlines any defence to the Application, with, if necessary, reference to legal authority.
 - 35.4. A numbered and paginated bundle of any documents referred to in the submission, with an index.
 - 35.5. A list of any legal authorities referred to in the submission;
 - 35.6. A corresponding numbered bundle of those authorities, with any passages relied upon clearly marked.
 - 35.7. Evidence showing any housing advice sought, and of any applications made to private or social landlords, including any application made to the local authority for housing assistance.
 - 35.8. Evidence showing the rent currently being paid for the Property, including the amount paid, to whom it is paid, and the method of payment.
36. The Respondent sent a handwritten letter dated 11 August 2026 to the tribunal's administration, which was processed on 17 August 2026, scanned into the tribunal's Case Management System and sent to the other party and the tribunal members. The letter was titled 'Cause and Effect'. The letter further stated that the tribunal administration's letter attaching tribunal's Direction dated 29 July 2026 had arrived at the Property on 8 August 2026 and had come into his possession on the later date of 10 August 2026. He requested an extension of the time to comply with the orders in the Direction to provide him time to access library facilities outwith his work hours. His request for a variation of the date for compliance was sent to the tribunal members.
37. The tribunal agreed to extend the time for compliance and a further Direction dated 25 August 2026 was issued requiring the Respondent to comply by 3 September 2026.

38. The Respondent did comply with the Direction and did not submit anything further to the tribunal prior to the adjourned CMD on 11 September 2026.

Case Management Discussion (CMD) 11 September 2026, 1000h: Teleconference

39. Ms MacDonald, Solicitor from the Applicant's Representative attended on behalf of the Applicant.

40. The Respondent, Mr Gallacher, attended with a supporter, Mr Eadie, Housing Needs Department, Falkirk Council, 5 York Lane, Grangemouth, SK3 8BD.

41. The CMD commenced at 1000h and concluded at 1159h, including adjournments. From 1120h onwards, the hearing was recorded by the tribunal clerk due to concerns about disrespectful, abusive and disruptive conduct by the Respondent towards the tribunal members, the other party and the clerk.

Respondent's submissions

42. The tribunal asked the Respondent for the reason for non-compliance with the tribunal's second Direction, with the requested extension to the date for compliance to 3 September 2026. The Respondent acknowledged that he had not lodged anything and provided various reasons, including: he did not trust the door staff at the Glasgow Tribunals Centre so he would not leave documents with them; he did not want to email documents to the tribunal's administration because of alleged maladministration by staff; he had not had sufficient time to gather documents; and he was not happy sending documents at all and required a 'face to face meeting' stating that it was his right as a taxpayer.

43. The tribunal asked the Respondent if he had managed to seek advice since the first CMD. The Respondent confirmed that he had sought advice from Mr Eadie (his supporter) and also from Citizens Advice Bureau, with whom he had had two telephone meetings.

44. The tribunal asked the Respondent if he had any documents in his possession at the CMD which he wished to request permission to lodge late, as they could be emailed to the tribunal clerk. The Respondent stated he had some documents but was not willing to lodge them with the tribunal today (11 September 2026), stating that it was his right as a taxpayer to have a face to face meeting, to which he would bring them.

45. The tribunal asked the Respondent if he had any defence he wished to state to the Application. He avoided answering the question and referred to a data Subject Access Request (SAR) he said had been made or he wished to make.
46. The tribunal asked the Respondent if he had taken steps since the first CMD to seek alternative housing with the local authority. The Respondent stated that a housing application had now been made to Falkirk Council and that no housing officer has been allocated. He stated that he has been told that he has Starter Band 2 priority but said that he does not know what that means.
47. The tribunal asked the Respondent if he had taken steps since the first CMD to seek alternative private housing. He stated that he had conversations almost every waking day about it but was not registered with any letting agents as seeking rental properties.
48. The tribunal asked the Respondent if he had any documents he wished to produce to support his submission at the previous CMD that there were no rent arrears and his challenges to the contents of the statement from his former landlord (bundle, page 17) and the Applicant's Representative's submissions that he had rent arrears. The Respondent stated that he had the information but he was not prepared to give it to the tribunal. The Respondent then stated that his former landlord had been unregistered and was trying to sell the house from under his feet; that the landlord had attended at the Property and assaulted him resulting in a police report and arrest; and that the landlord had turned off the heating and hot water. The Respondent stated that the letter from the landlord lodged by the Applicant was untrue.
49. The Respondent then referred to deception in the Notes of the Case Management Discussion from 29 July 2026 and stated that it would be 'cut into shreds'.
50. The tribunal asked the Respondent again if he wished to state any defence to the Application or make any submissions about whether the Applicant can establish the specified ground for possession. In response, the Respondent stated that the original documentation was received by him on 26 June 2026 and he had not had time to consider it.
51. After an adjournment, the hearing recommenced at 1120h and from this point the proceedings were recorded by the tribunal clerk for the use of the tribunal, for the reason stated above. The clerk also told the parties that the clerk had a mute button which could be used by her in the event of disruptive conduct or interruptions by any party. The clerk also told the Respondent that if he wishes to make a data SAR that this should be made in writing to the tribunal's administration in hard copy or by email and she offered to provide address details. The Respondent confirmed that he already had the address.

52. The tribunal asked the Respondent again whether he wanted to make any submissions before the tribunal heard from the Applicant's Representative. The Respondent stated that he would reiterate what he said earlier and referred to an alleged failure by the Applicant's Representative to reply to a data Subject Access Request he had made to them.
53. The Respondent alleged that the tribunal chair had accused him of lying in the Notes in the CMD of 29 July 2026. The tribunal chair stated that at no point had she accused the Respondent of lying. The Respondent alleged that the tribunal chair was lying. The tribunal chair stated that she was not.
54. The tribunal asked the Respondent whether he wished to outline anything in his personal circumstances in his defence to the Application. The Respondent stated that he had nothing to add to his personal circumstances and was not prepared to answer that. The Respondent stated that he intended to contact Angela Rayner and Andy Burnham.

Applicant's Representative's submissions

55. Ms MacDonald stated that her position remained the same as at the first CMD and invited the tribunal to make an order for possession on the basis of all the material before it. She stated that nothing the Respondent had said in the CMD today had changed that position.
56. Ms MacDonald submitted that possession was granted on 4 December 2024; the heritable creditor wished to repossess the Property; the AT6 was served on the basis that the Property would be sold with vacant possession; that it was a statutory obligation to obtain the best possible price; and that the Respondent has had ample time to vacate, the AT6 having been served on 16 September 2025, with an expiry date of 17 November 2025 (referring to the executions in the bundle, page 12). She submitted that the Respondent was initially notified when served with the Form BB on 15 March 2024. She acknowledged when asked by the tribunal that the Respondent had stated at the first CMD that he had not received the Form BB and that he thought it may have been collected by the landlord with other mail. She submitted that the documents advising of a court hearing were served on the Respondent by Sheriff Officers on 30 October 2024 (referring to the execution in the bundle).
57. Ms MacDonald submitted that the AT6, having expired in November 2025, the Applicant and the landlord are continuing to be prejudiced with interest accruing and equity in the Property eroding as arrears continue to accrue.

58. Ms MacDonald stated that she cannot provide further information as to whether there are rent arrears, beyond the information provided by the mortgage customer to her client that no rent has been paid by the Respondent since May 2024.
59. Ms MacDonald stated that her firm has had no further direct contact from the Respondent. She stated that he is not the Applicant's customer and that her firm does not hold any of his personal information. She stated that if he wants to make a data SAR he would need to do so in writing to her firm.
60. Ms MacDonald submitted that in relation to reasonableness, no points have been made by the Respondent in relation to his personal circumstances or ties to the community. She submitted that there is no benefit in a 'face to face' hearing as no information has been produced by the Respondent and that it would be unfair for a hearing to be fixed and for that to be produced on the day. She submitted that there does not appear to be any defence.
61. Ms MacDonald stated that her primary position is an order for possession with no delay in execution; but that if the tribunal decides to grant an order for possession, she had instructions to agree to a delay in enforcement for a period of three months from the date of the decision, stating that she was in the tribunal's hands as to any period of delay in execution.

Respondent's further submissions

62. The tribunal asked the Respondent if he wished to respond to anything said on behalf of the Applicant. The Respondent stated that he had no further wish to speak to the tribunal. He again alleged that the tribunal chair had accused him of lying. The tribunal chair repeated that this was not the case. The Respondent then stated that 26 June 2026 was the first day he got the documents. He alleged that the tribunal had no empathy and no understanding.

Further procedure

63. The tribunal chair told parties that the tribunal would be adjourning to deliberate. The Respondent stated that he had no intention of re-joining.
64. The tribunal adjourned to deliberate.
65. When the tribunal resumed, the Respondent re-joined the call and was present when the tribunal gave its decision orally. The tribunal confirmed that a written decision with statement of reasons would be sent to parties and that the order would follow after the expiry of the appeal period.

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

- 66.1. Mr Gary John Hunter and Mrs Susan Hunter are the registered proprietors of the Property.
- 66.2. Gary Hunter (the Landlord) granted a security over the Property in favour of the Applicant.
- 66.3. The Applicant is the heritable creditor of the Property.
- 66.4. There is a current arrears balance on the mortgage and interest is continuing to accrue.
- 66.5. The Landlord entered into an assured tenancy with the Respondent.
- 66.6. On 15 March 2024, a Form BB was sent to the occupier of the Property providing notice of calling up of a standard security had been served by the Applicant on Mr Gary John Hunter and Mrs Susan Hunter in relation to the Property.
- 66.7. On 4 December 2024, the Applicant obtained a decree at Falkirk Sheriff Court entitling them to enter into possession and sell the let Property.
- 66.8. On 16 September 2025, the Applicant's Representative served the AT6 form on the Respondent by Sheriff Officers, on ground 2 that the home is subject to a heritable security granted before the creation of the tenancy
- 66.9. The AT6 Form had an expiry date of 17 November 2025.
- 66.10. 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.
- 66.11. The Respondent lives alone in the Property, which is a three bedroomed Property.
- 66.12. The Respondent is currently in self-employment.
- 66.13. The Respondent has taken steps to find suitable alternative accommodation by applying to the local authority but has not yet been allocated anything.

Discussion

67. The Application for an order for possession was opposed but the Respondent did not provide any substantive defence to the Application, having failed to comply with the tribunal's Directions and having not made any substantive oral submissions at the CMD. The tribunal did not accept his submission that he had had insufficient time to do so, given the time that had passed since service of the tribunal documentation on 26 June 2026, the adjournment of the CMD on 29 July 2026 precisely for that reason and the extension to the time period in the tribunal's Direction of 29 July 2026. The Respondent also confirmed to the tribunal that prior to the second CMD he had received advice from Mr Eadie at Falkirk Council and Citizens Advice Bureau; and the Respondent was supported by Mr Eadie at the second CMD.
68. The tribunal was satisfied on the basis of the findings in fact that Ground 2 in Part II of Schedule 5 of the Act is established. The tribunal proceeded on the basis that there is an assured tenancy. 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. There was no dispute that there is a tenancy and that the Respondent is continuing to reside in the Property. The tribunal decided that it was reasonable to dispense with the requirement of notice in the circumstances.
69. The tribunal considered that in all the circumstances, it was reasonable to make an order for possession but to defer enforcement to allow the Respondent additional time to secure alternative accommodation either via the local authority for which he has already made an application, or in the private rented sector. The Applicant's Representative offered on behalf of her client to delay enforcement for a period of three months from the date of the decision. The Respondent did not respond to the offer. The tribunal considered that a delay in enforcement for three months to 11 December 2026 was reasonable.
70. 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 11 December 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.

11 September 2026

Legal Member/Chair

Ms. Susanne L. M. Tanner K.C.