



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/3917

Re: Property at 70F High Street, Renfrew, PA4 8UQ (“the Property”)

Parties:

Topaz Finance Limited T/A Heliodor Mortgages, The Pavillions, Bridgewater Road, Bristol, BS13 8AE (“the Applicant”)

Ms Maureen Cadden, 70F High Street, Renfrew, PA4 8UQ (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 9 February 2026 informing both parties that a CMD had been assigned for 26 March 2026 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision on the application at the CMD if the Tribunal has sufficient

information and considers the procedure to have been fair. The Respondent was invited to make written representations by 2 March 2026.

4. On 12 February 2026, the Respondent sent an email to the Tribunal attaching paperwork relating to an earlier tenancy agreement.

The case management discussion – 26 March 2026

5. The CMD took place by conference call. The Applicant was represented by Miss Katie Macdonald, solicitor. The Respondent joined the call and represented herself. The Tribunal explained the purpose of the CMD.
6. The Respondent explained that she lives in the Property with her two children aged 16 and 12. She is in part time employment and in receipt of universal credit. The Respondent is not opposed to the application for an eviction order, but she does not have alternative accommodation to go to. She has been in contact with the local authority and has been told that nothing can be done to identify suitable accommodation for her and her family unless and until an order is granted.
7. The Applicant's representative explained that the Applicant has obtained a decree from Paisley Sheriff Court, which found and declared there was a standard security over the property and that the Applicant is entitled to enforce that. The decree confirmed that the Applicant has the right to enter into possession and sell the property. The Applicant requires vacant possession in order to do so. The Applicant has information to suggest that one of the Property owners has passed away. That is yet to be confirmed and the Applicant is giving consideration to whether it needs to seek amendment of the Extract Decree. The Applicant needs to sell the Property in order to redeem or reduce the outstanding mortgage. A sale with vacant possession would attract the maximum possible sale price. Selling with the Respondent as a sitting tenant would limit the marketability of the Property.
8. The Tribunal outlined the timescale for an eviction taking place if an order is granted. The Tribunal invited submissions on whether the Tribunal should exercise its discretion in terms of Rule 16A to delay the execution of an order, if the Tribunal is minded to grant an order. Whilst the Applicant had no objection of the execution of an eviction being delayed, the Respondent did not seek to delay execution in the event that an order is granted.
9. The Tribunal adjourned the CMD to enable the members to discuss matters in light of the information provided. When the CMD was reconvened, the Tribunal explained that it found the ground for eviction established and found that it is reasonable to grant an order for eviction.

Findings in Fact

10. George Fulton and Nathalie Fulton are the owners and landlords, and the Respondent is the tenant, of the Property under a private residential tenancy agreement, which commenced on 11 October 2022.
11. The Property is subject to a standard security granted by George Fulton and Nathalie Fulton to Northern Rock Plc on or around 1 December 2006. That standard security was assigned to the Applicant on or around 13 November 2019.
12. On 26 November 2024 the Applicant obtained a decree from Paisley Sheriff Court against George Fulton and Nathalie Fulton. The decree entitles the Applicant to enter into possession and sell the property.
13. On 14 May 2025 the Applicant served a notice to leave under section 62 of the 2016 Act to the Respondent by sheriff officers.
14. The Applicant has given the local authority notice under section 11 of the Homelessness etc (Scotland) Act 2003.
15. The Applicant intends to sell the property. The Applicant requires to sell the property with vacant possession in order to obtain the maximum sale price to repay the outstanding mortgage. A sale with the Respondent in situ would damage the marketability of the property.

Reason for Decision

16. In accordance with Rule 17(4) of the Rules, the Tribunal was satisfied that it could make relevant findings in fact in order to reach a decision following the CMD, and that to do so would not be contrary to the interests of the parties in this case.
17. Section 52(2) of the 2016 Act states that “an application for an eviction order must be accompanied by a copy of a notice to leave which has been given to the tenant”. The Tribunal was satisfied based on the application paperwork that the Applicant had given the Respondent a notice to leave that meets the criteria under section 62 of the 2016 Act.
18. Section 51 of the 2016 Act states “the First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
19. The Applicant relied upon ground 2 of schedule 3 of the 2016 Act as the ground for possession in this case. The Tribunal therefore considered the wording of ground 2:-

- (1) It is an eviction ground that a lender intends to sell the let property.
- (2) The First-tier Tribunal may find that the ground named by subparagraph (1) applies if—
 - (a) the let property is subject to a heritable security;
 - (b) the creditor under that security is entitled to sell the property;
 - (c) the creditor requires the tenant to leave the property for the purpose of disposing of it with vacant possession; and
 - (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”

20. Based on its findings in fact, the Tribunal was satisfied that paragraphs 2(a), (b), and (c) of ground 2 were met. The Tribunal therefore went on to consider whether it would be reasonable to issue an eviction order on account of those facts which required the Tribunal to identify the factors in this case relevant to an assessment of reasonableness.

21. The Respondent did not oppose the application. She has been in contact with the local authority but has not yet been offered alternative accommodation. The Tribunal also took into account the Applicant’s reasons for seeking an eviction order. The Tribunal accepted that they had a duty to ensure the best possible sale price so that the mortgage debt could be repaid. This was a credible explanation for the action they had taken.

22. The Tribunal therefore concluded that eviction ground 2 is established and it is reasonable in all the circumstances for an eviction order to be granted.

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.

Nicola Irvine

Legal Member/Chair

26 March 2026

Date