



**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**

**Chamber Ref: FTS/HPC/EV/25/3868**

**Re: Property at 1A Stewart Street, Dundee, DD2 3DP (“the Property”)**

**Parties:**

**Royal Bank of Scotland PLC, 36 St Andrew Square, Edinburgh, EH2 2YB (“the Applicant”)**

**Paula Connelly, 1A Stewart Street, Dundee, DD2 3DP (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Angus Lamont (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. The Tribunal ordered a delay in the execution of an eviction order until 28 July 2026, in terms of Rule 16A (d) of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

**Background**

1. The Applicant submitted an application under Rule 65 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 10 March 2026 informing both parties that a CMD had been assigned for 28 April 2026 at 10am, 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 31 March 2026.
4. On 21 April 2026, the Respondent's representative sent an email to the Tribunal attaching written representations.

### **The case management discussion – 28 April 2026**

5. The CMD took place by conference call. The Applicant was represented by Miss Katie Macdonald, solicitor and the Respondent was represented by Miss Rebecca Falconer, solicitor. The Tribunal explained the purpose of the CMD.
6. The Respondent's representative confirmed that although the Respondent did not consent to an order being granted, she did not oppose the application. The written representations explained the Respondent's personal circumstances and family composition. The Respondent has been in contact with the local authority but has not been offered alternative accommodation. The Respondent sought a delay in the execution of any order by an additional period of 3 months.
7. The supporting papers lodged by the Applicant disclose that the Applicant has obtained a decree from Dundee 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 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. The Applicant's representative confirmed that there is no objection to the motion for a delay in the execution of any order by an additional period of 3 months.
8. The Tribunal explained that it found the ground of eviction established and found that it is reasonable to grant an order for eviction. The parties were advised that the Tribunal was persuaded to exercise its discretion in terms of Rule 16A to delay the execution of the order by an additional period of 3 months.

### **Findings in Fact**

9. Craig Ramsey Stewart is the owner and landlord, and the Respondent is the tenant, of the Property under an assured tenancy agreement, which commenced on 1 May 2016.

10. The Property is subject to a standard security granted by Craig Ramsey Stewart to the Royal Bank of Scotland Plc which was registered in the Land Register of Scotland under title number ANG25326 on 15 February 2008.
11. Clause 12 (c) of the tenancy agreement gave notice to the Respondent that the Property is subject to a standard security which was granted before the creation of the tenancy agreement
12. On 30 January 2025 the Applicant obtained a decree from Dundee Sheriff Court against Craig Ramey Stewart. The decree entitles the Applicant to enter into possession and sell the property.
13. On 23 June 2025 the Applicant served a notice of proceedings (form AT6) on 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. The Applicant relied upon ground 2 of schedule 5 of the Housing (Scotland) Act 1988 as the ground for possession in this case. The Tribunal therefore considered the wording of ground 2:-

*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 is satisfied that it is reasonable to dispense with the requirement of notice.*

18. Based on its findings in fact, the Tribunal was satisfied that paragraphs 2(a) and (b) were met. The Tribunal therefore went on to consider whether it would be reasonable to issue an eviction order.

19. 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.
20. 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. The Respondent has not yet secured alternative accommodation. She has been in contact with the local authority but has not been offered alternative accommodation. The Tribunal exercised its discretion in terms of Rule 16A (d) of the Rules and ordered a delay in execution of the eviction order by a period of 3 months. The Tribunal would expect the local authority to treat the Respondent as homeless from the date of this decision in order to identify suitable accommodation for the Respondent and her family.

### **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**

**28 April 2026**

**Date**