



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/5327

Re: Property at 319B High Street, Kirkcaldy, KY1 1JL (“the Property”)

Parties:

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

Stefania Dorina Matei, 319B High Street, Kirkcaldy, KY1 1JL (“the Respondent”)

Tribunal Members:

Elaine Paton (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. An application has been received under Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”).
2. The Applicant seeks an eviction order in terms of Section 51 and Ground 2 of schedule 3 of the 2016 Act. Copies of a tenancy agreement, Form BB dated 29 September 2023, Extract Decree for repossession in favour of the Applicant granted 27 February 2024, Notice to leave with evidence of service, and section 11 notice with evidence of service were lodged with the application.
3. A copy of the application was served on the Respondent by Sheriff Officers on 27 May 2026. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 29 June 2026 at

10am and that they were required to participate. The Respondent was invited to lodge written representation in response to the application. No representation was received from the Respondent in advance of the CMD hearing.

4. The CMD took place on 29 June 2026 by telephone conference call. The start of the CMD was delayed for a short period to allow for the Respondent to join the call in the event that they were making efforts to do so. The Applicant was represented by Ms Mullen of Aberdeen Considine, solicitors. The Respondent did not participate.

Summary of Discussion at CMD

5. Ms Mullen stated the Applicant was seeking an order for eviction under Ground 2 (the let property is to be sold by the lender). The Tribunal had before it a copy of the title sheet to the Property. In terms of the title sheet, the Applicant is the mortgage lender under a heritable security granted by the registered proprietor of the Property and registered 25 November 2010. Ms Mullen stated the Applicant had obtained a decree for repossession granted 27 February 2024.
6. Ms Mullen stated that a Notice to Leave had been served on the tenant, the Respondent, on 25 August 2025 and the expiry date of that Notice was 18 November 2025, therefore the requisite period of notice had been provided. The Tribunal noted the Notice to Leave had been served upon the Respondent by Sheriff Officers and relative certificate of execution of service was amongst the application papers.
7. Ms Mullen explained the Respondent is Romanian and her firm Aberdeen Considine had ensured papers and documents had been translated into Romanian to ensure the Respondent was aware of the content. Ms Mullen provided details of communications her firm had had with the Respondent.
 - (a) The most recent contact had been on 22 June 2026 by telephone when the Respondent confirmed they were still residing in the Property, and during which call the Respondent had been reminded about the upcoming CMD hearing scheduled for today. During this call the Respondent had passed the phone to their son who resides in the property with them however the call was then ended, albeit it is unknown whether the call was ended by the Respondent or their son.
 - (b) Ms Mullen explained that prior to that last call, an inbound call to her firm's office had been received from the Respondent on 25 March 2026 at which time the Respondent mentioned they had been advised (believed to have been by the landlord) to leave the property by 01 April 2026 and, in response, it had been stated to the Respondent that the Applicant's solicitors had no knowledge of that position or any relative communication to that effect as they were awaiting to hear about a date for a CMD regarding the Applicant's application seeking repossession of the Property. In response to the tribunal, and on checking the relative note on her file, Ms Mullen stated that during this call on 25 March 2026 the Respondent had not mentioned anything about having obtained advice on their housing

options or alternative accommodation however Ms Mullan's colleague had stated to the Respondent that they should obtain independent legal advice and suggested Citizens Advice Bureau and/or Shelter were organisation that may be able to offer assistance to them. Ms Mullan was unaware whether or not the Respondent had then proceeded to obtain such advice or assistance.

(c) Ms Mullen continued to explain that Sheriff Officers had attended at the Property subsequently, on 22 April 2026, for an occupancy check and had reported the Respondent was still residing in the Property.

(d) In response to the Tribunal, Ms Mullen checked her firm's records and noted a report from Sheriff Officers received in May 2025 stated the only individuals said to reside in the Property were the Respondent and their three children, including the son already referred to, albeit there was no information on the ages of the children. Ms Mullan stated there was no further information regarding the Respondent's circumstances available to her.

8. In response to the Tribunal, Ms Mullen stated the Applicant did not involve itself in the collection of rent payable by the Respondent, as tenant in terms of the tenancy agreement, therefore no payments of rent had been accepted by her client. Moreover, Ms Mullen stated that the Applicant requires vacant possession of the Property in order to sell it in compliance with its duty to do so at the best price that can reasonably be obtained. The Tribunal noted that a copy Form BB dated 29 September 2023 had been produced with the application.

9. The Tribunal asked Ms Mullan to comment upon the tenancy agreement produced which was labelled 'Short Assured Tenancy Agreement'. Ms Mullan stated that the tenancy arrangement had commenced on 04 February 2025 therefore, despite its title, the arrangement between the parties was a private residential tenancy.

Findings in Fact

10. The tenancy arrangement between the Respondent and their landlord in relation to the Property commenced on 04 February 2025. Consequently, the tenancy is a private residential tenancy. The Respondent is the tenant. Craig Stewart is the landlord.

11. Craig Stewart is the registered landlord under Registration number: 30963/250/17260. Craig Ramsay Stewart is the registered proprietor noted in the Title Sheet to the Property registered in the Land Register for Scotland.

12. The Property is subject to a heritable security (a mortgage). The heritable security was registered in the Land Register for Scotland on 25 November 2010 under the Title Sheet for the Property. The Applicant is the mortgage lender and creditor under the said heritable security secured against the Property.

13. A Form BB Notice to The Occupier was sent to The Occupier of the Property on 29 September 2023.
14. The Applicant obtained a Decree in its favour under the Conveyancing and Feudal Reform (Scotland) Act 1970 ("the 1970 Act") granted by Kirkcaldy Sheriff Court on 27 February 2024, extracted on 13 March 2024. In terms of Section 24(1B) of the 1970 Act, the Applicant has the right to sell the Property and to enter into possession of it.
15. A Notice to Leave dated 11 August 2025 was issued to the Respondent which advised that proceedings would not be raised before 18 November 2025. The Notice to Leave was served personally upon the Respondent by Sheriff Officers on 25 August 2025.
16. A section 11 notice by the Heritable Creditor of the Landlord was issued on 08 December 2025 to the local authority, and sent by email the same day, advising that proceedings for recovery of possession of the property has been raised on that date in the First-tier Tribunal for Scotland.

Reasons for Decision

17. The application was submitted with a copy tenancy agreement. The Respondent has resided at the Property since 04 February 2025.
18. Copy Extract Decree dated 27 February 2024 obtained by the Applicant under the 1970 Act was produced with the application together with Form BB Notice to the Occupier dated 29 September 2023.
19. The application was also submitted with a Notice to Leave dated 11 August 2025, together with Sheriff Officers' certificate of execution of service which establishes that the Notice was served on the Respondent on 25 August 2025. The Notice states that an application to the Tribunal is to be made on ground 2 (the let property is to be sold by the mortgage lender) and references the decree granted in favour of the Applicant on 27 February 2024.
20. The application to the Tribunal was made after expiry of the notice period on 18 November 2025. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
21. Section 51(1) 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 the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."*

In terms of Section 63 of the 2016 Act references to "landlord" include *"a creditor in a heritable security over the let property who is entitled to sell the property"*.

A creditor holding a decree under Section 24 of the 1970 Act has title and interest to make an application to the First-tier Tribunal for an eviction order under the 2016 Act and is entitled in its own right to serve notice to leave and take the prerequisite steps in relation to an application for eviction.

22. Ground 2 of schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states, “(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 sub-paragraph (1) applies if– (a) the let property is subject to a heritable security, (b) the creditor under that security is entitled to sell the let 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.*”
23. The Tribunal accepted the unchallenged evidence of the Applicant in the form of the documents submitted and the information provided at the CMD.
24. The Tribunal is satisfied that the let property is subject to a heritable security and that the Applicant, as creditor under that security, is entitled to sell the Property by virtue of the Decree granted in its favour by Kirkcaldy Sheriff Court on 27 February 2024. The Tribunal is satisfied that vacant possession of the Property is required by the Applicant for the purpose of disposing of it in order to comply with its duty under Section 25 of the 1970 Act which states “*it shall be the duty of the creditor to...take all reasonable steps to ensure that the price at which all or any of the subjects are sold is the best that can be reasonably obtained*”.
25. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following:
 - (a) The Tribunal noted the debtor and landlord entered into a tenancy arrangement with the Respondent on or around 04 February 2025 aware that decree had been granted against them on 27 February 2024.
 - (b) The Tribunal noted Sheriff Officers attended at the Property as follows, at the instance of the Applicant/Applicant’s solicitors:
 - (i) for an occupancy check in May 2025;
 - (ii) to serve the Notice to Leave upon the Respondent personally on 25 August 2025; and
 - (iii) for an occupancy check on 22 April 2026.

On all three occasions the Respondent stated they were residing in the Property yet did not engage meaningfully thereafter with the Applicant’s solicitors.

- (c) The Tribunal noted it was stated the Respondent is Romanian and the Applicant's solicitors arranged for correspondences from them to be translated into Romanian to ensure the Respondent would understand the content of same.
- (d) The Tribunal noted the Applicant's representative Ms Mullen had limited information about the Respondent and their circumstances however did state the only residents believed to reside in the Property are the Respondent and their three children (including one son) although the children's ages are unknown.
- (e) The Tribunal noted the Applicant's solicitors spoke to the Respondent:
 - (i) by inbound telephone call to their office from the Respondent on 25 March 2026 when the Respondent was told no date for a CMD had been provided at that time regarding the present application for eviction (and information to the contrary was not within their knowledge) and the Respondent should obtain independent advice, with Citizens Advice Bureau and Shelter signposted as organisations which might assist them; and
 - (ii) by outbound telephone call to the Respondent on 22 June 2026 when the Respondent confirmed they were still residing in the Property and they were reminded about the CMD scheduled for today.
- (f) The Tribunal is satisfied the Applicant is under a statutory obligation to obtain the best price that can reasonably be obtained for the Property, therefore it requires vacant possession of the Property in order to market it for sale.
- (g) The Tribunal is satisfied there is no evidence to contradict the Applicant's position as outlined above, nor in relation to their understanding regarding the Respondent's family composition.
- (h) The Tribunal is satisfied that the application papers were served upon the Respondent by Sheriff Officers on 27 May 2026. The Respondent has chosen not to submit any response to the application in advance of the CMD and did not join the CMD telephone conference call to put forward their position before the Tribunal.
- (i) The Tribunal is satisfied the Respondent has had knowledge of the Applicant's intention to sell the Property for a significant period (some ten months from the date of service of the Notice to Leave); the Respondent has had sufficient time to obtain advice and assistance in order to make representation (if any) in response to the application. The Respondent has put forward no opposition to the application.

The Tribunal concludes that the Applicant has complied with Rule 109 of the 2017 Rules, the requirements of the 2016 Act, and that ground 2 has been established. For the reasons outlined in paragraph 25, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

The Tribunal determines that an eviction order should be granted against the Respondent.

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.

E.Paton

29 June 2026