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 51 Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act")

Chamber Ref: FTS/HPC/EV/24/1334

Property at 12 Newton Road, Dundee, DD3 0LT ("the Property")

Parties:

West Bromwich Mortgage Company Limited, 2 Providence Place, West Bromwich, B70 8AF ("the Applicant")

Mr Gordon Barclay, 12 Newton Road, Dundee, DD3 0LT ("the Respondent")

Tribunal Members:

Josephine Bonnar (Legal Member) and Mary Lyden (Ordinary Member)

Decision

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. The Tribunal also ordered a delay in execution of the order until 15 January 2027 in terms of Rule 16A(d) of the Tribunal Rules of Procedure 2017.

Background

1. The Applicant seeks an eviction order in terms of Section 52 and ground 2 of schedule 3 of the 2016 Act. A short assured tenancy agreement, private residential tenancy agreement, Notice to Leave, Section 11 Notice and Extract Decree granted against the owner of the property at Dundee Sheriff Court on 9 March 2026 were lodged with the application.

2. A copy of the application was served on the Respondent, and both parties were notified that a case management discussion ("CMD") would take place on 21 August 2024. Prior to the CMD the Respondent's representative lodged written submissions.

3. The CMD took place on 21 August 2024. The Applicant was represented by Ms Masters, solicitor. The Respondent was represented by Mr Marshall, solicitor. The Respondent and his wife also participated. Mr Marshall told the Tribunal that the application is opposed on the grounds that it would not be reasonable to grant the order. He referred to the Respondent's personal circumstances. He also referred to the case of Trade Development Bank v Crittall Windows Ltd, a copy of which he had lodged in advance of the CMD. He said that this case supported the Respondent's argument that it would not be reasonable for the Tribunal to grant the eviction order if the Applicant had been aware of the tenancy or if it had been a buy to let mortgage. He said that the property should be sold by the lender with the Respondent as a sitting tenant. Mr Marshall also told the Tribunal that that the Respondent has not paid rent since October 2023. However, he has set it aside along with the housing benefit he received to assist with the rent. He also advised the Tribunal that the Respondent has occupied the property since 2016. He signed a second SAT in 2019 and a PRT in 2022.

4. Ms Masters referred to the procedural history of the case and asked the Tribunal to grant the order. She said that the Applicant could not sell the property with a sitting tenant due to the terms of Section 25 of the Conveyancing and Feudal Reform (Scotland) Act 1970. This requires them to get the best price that can be reasonably obtained.

5. Following the CMD, the Tribunal continued the application to an evidential hearing and issued a direction for further information and documents. A Hearing was assigned for 6 December 2026.

6. On 22 August 2024, the Respondent's representative submitted the first page of a SAT with a start date of 18 May 2016.On 9 October 2024, the Respondent's representative lodged written submissions and a copy of the whole 2016 tenancy agreement.

7. On 23 October 2024, the Applicant's representative requested additional time to provide a response to the direction and a postponement of the hearing as they had just instructed Counsel whose availability was limited. The request was granted.

8. On 6 November 2024, the Applicant's representative lodge their direction response. This confirmed that the sums owed to the Applicant at the date of the calling up notice in June 2022 had been £79, 618.73 and that the estimated value of the property was £124,000. The submission also provided a response to the Respondent's submission about the Crittall Windows case.

9. The parties were notified that a hearing would take place on 7 March 2025. Prior to the hearing the Respondent lodged a further brief submission regarding the relevance of the Crittall Windows case. The Applicant lodged an affidavit by Maxine Lord, an employee of the Applicant. This stated that the landlord's mortgage had been a buy to let product. The standard security had been granted in December 2006. The affidavit also indicated that the sum owed by the landlord had increased to £91,782.75 and that the Applicant had been unaware of the existence of a tenant in the property until July 2022. The value

of the property was approximately £124,000 with vacant possession but would be lower with a tenant in occupation. On 6 March 2025, the Applicant's representative submitted a bundle of authorities.

10. A Hearing took place on 7 March 2025. However, no decision was issued by the Tribunal following that hearing.

11. The parties were notified that a hearing by telephone conference call would take place on 20 October 2026. Prior to the Hearing the Applicant's representative submitted an updated affidavit from Maxine Lord and confirmed that they intended to rely on this and did not intend to call any witnesses.

12. On Friday 16 October 2026 at 5pm the Respondent's representative sent an email with attachments to the Tribunal. This stated that the Respondent was exploring the possibility of the house being purchased by a buy to let landlord and had spoken to a mortgage advisor. Mr Marshall had contacted the mortgage advisor on 16 October 2026 but had received an "out of office" reply indicating that the advisor was on holiday. The Respondent was seeking a postponement or adjournment of the hearing for a short period of time to see if there was a possibility of a purchaser for the property being identified who would pay a sum that would be sufficient to clear the debt owed to the Applicant by the owner. Copies of emails with the mortgage advisor and the Applicant's solicitor were attached. Considering the delay which had already taken place, which was not the fault of either party, the Tribunal decided that the hearing could only be postponed if the Applicant agreed as it would not be in the interest of justice otherwise. The Applicant's representative confirmed that they opposed a postponement or adjournment of the case.

13. The Hearing took place on 20 October 2026. The Applicant was represented by Mrs Masters Good. The Respondent participated, supported by his wife Mrs Barclay and was represented by Mr Marshall.

The Hearing

14. At the start of the hearing the Legal Member advised the parties that there was no record of the previous hearing and that, as the current members of the Tribunal were new to the case, no account could be taken of previous oral evidence and submissions. Mr Marshall confirmed that the defence to the application is based on reasonableness only. He also confirmed that the Respondent was ready to proceed but still thought that an adjournment would be appropriate. The Legal Member advised the parties that the hearing would proceed, for the reasons previously intimated.

The Applicant's evidence

15. Mrs Masters Good advised the Tribunal that she did not intend to lead oral evidence from any witnesses and simply relied on the updated affidavit which had been lodged. In response to questions from the Tribunal, she stated that

the Applicant has not collected rent from the Respondent. She said that the decree from the Sheriff Court allows the lender to take possession of the property. However, they have not taken possession and have not stepped into the landlord's shoes. The owner is still the landlord. Plan A for the Applicant is to obtain vacant possession of the property and sell it. If the eviction order is refused, they will have to look at selling with the tenant in occupation. However, lenders usually only consider that course of action when they are unable to remove a tenant. For example, if there is no tenancy agreement in relation to an assured tenancy and they cannot identify the ish date. In all other cases, they apply for eviction.

Mr Barclay's evidence

16. In response to questions from Mr Marshall, Mr Barclay said that he resides at the property with his wife Elizabeth. The house is a two-bedroom end terraced property with a garden. They moved into the house in 2015 and were given a rent-free year as they had agreed to carry out renovations. They installed a new kitchen and bathroom and replaced floor coverings throughout the house. They also decorated and sorted out the garden. Mr Barclay did the work himself and spent about £8000 on materials. In November 2025, he purchased a new boiler for the property. Mr Barclay confirmed that they only ever dealt with the letting agent, Pavilion Properties, never the landlord. They signed a tenancy agreement in May 2016 to rent the property at £550 per month. The rent has never been increased. When asked when he last paid rent, Mr Barclay said about a year ago, then (after conferring with his wife) said maybe two years. They did not know who to pay the rent to. He cancelled the direct debit as Pavilion said that they were no longer managing the landlord's properties. They contacted Pavilion about the rent when they got a letter about the re-possession.

17. Mr Barclay told the Tribunal that he had investigated applying for an interest only mortgage to try to buy the house. However, due to their age and limited income they are not eligible. He said that he and his wife only have their state pensions although he also has PADP or attendance allowance of £300 per month. He gets this as he has arthritis which affects most of his joints. When they discovered that they could not get a mortgage, Mr Barclay spoke to a mortgage advisor that his son knows. The advisor said that he knew of companies that bought properties with sitting tenants. He said he could speak to some people. Mr Barclay didn't hear anything further. The advisor knows that that the Applicant is owed over £108,000. He did not say that one of the companies would be willing to pay this sum but only indicated that the lender might be willing to take an offer. In response to further questions, Mr Barclay said that he and his wife have lived in the area where the property is located for over 40 years. He owned a property at one point until he lost his job. They lived in another private let for a year before moving to Newton Road. He said also that he and his wife had their name down on the Council waiting list for 10 or 12 years but were not offered anything. He does not know what points they were awarded. If they are evicted, he will need to apply to the Council. He has

also looked at housing association properties. He was offered a tenement flat by the Council, but he could not accept it because of the stairs. The current property has stairs to the upper level, but he can manage those. If he is to move to a Council property he is aiming for a low door. However, he and his wife are settled where they are. It's a good area and they get on well with the neighbours.

18. In relation to the emails with the mortgage advisor, Mr Barclay said that he has had no contact with him since the email of 13 October as the advisor has been on holiday. He had told Mr Barclay that he could speak to people with property portfolios to see if there was any interest.

19. In response to questions from Mrs Masters Good, Mr Barclay confirmed that at the last hearing he stated that he had been offered 4 or 5 properties by the Council and said that he has not been offered any others since that time. He said that he had been taken off the Council list because of the length of time that had passed in relation to the eviction application. He can't re-apply unless he is homeless. He has tried to speak to someone at the Council recently and left voicemails but has not been successful.

20. In response to questions from the Tribunal, Mr Barclay said that he has looked for anther private let but cannot afford the rents currently being charged. Current rents are in the region of £1200 to £1500 per month. He understands that if a new landlord buys the property, they could increase the rent by a significant amount, although he has not given this much thought. In response to further questions Mr Barclay said that he has put the rent money aside since he stopped paying it to Pavilion. It is in the TSB and there is about £9000. This includes the HB he has received from the Council of £230 each month. He accepts that the mortgage advisor may have been suggesting that a potential purchaser might offer less than the sum due to the Applicant by the landlord. In relation to personal circumstances, Mr Barclay said that he has friends and family in the area, including his oldest son who is nearby. In addition to the arthritis, he suffered a mini stroke 6 months ago and his wife is on medication for depression and High Blood Pressure. He confirmed that he has made the Council aware of his circumstances in connection with his application for housing, although he has not managed to speak to anyone recently. He has not received any advice from the HB department of the Council about his HB payments and the rent.

The Applicant's submissions

21. Mrs Masters Good said that the Respondent has had the benefit of an additional 19 months' rent free in the property as a result of a decision not being issued last year. She referred to the Respondent's submission that the Applicant should accept an offer for the property if it covers the sums owed by the landlord, if the Respondent can facilitate this. However, only the Applicant or the owner can sell the property. The claim that it is unreasonable for an order to be granted if the debt can be extinguished is misconceived. The Applicant is

not the only person with an interest. The property is still in the name of the owner, and he is due to receive any surplus funds in terms of Section 27 of the 1970 Act. Similarly, if the property is sold for less than the debt, the owner is liable for the shortfall. Mrs Masters Good referred to the figures in the affidavit of Maxine Lord. There would be a significant shortfall if the property is sold with a sitting tenant. There are also practical considerations. When a property is sold at auction without vacant possession this reduces the pool of purchasers. Often the property is not sold at the first attempt and when it goes back to auction the guide price has to be reduced. There can also be issues if tenants are not cooperative about allowing viewings. This can also affect the price which is ultimately obtained. The Applicant rejects the claim that the reasonableness test in the 2016 Act in relation to ground 2 should take account of the question of whether the debt can be extinguished if the tenant remains in occupation. The reasonableness test in the 2016 Act does not supersede the statutory duty imposed by the 1970 Act. There is caselaw to support the conclusion that the lender must sell for the best price.

22. Mrs Masters Good advised the Tribunal that the Respondent has been aware of the repossession since 2022. He has been on notice since then. He has been offered and declined 4 or 5 Council houses. No evidence has been lodged in support of the medical conditions which should not be relied upon. In relation to the Crittall Windows case, Ms Masters Good said that she was content to rely on the written submissions. It is not relevant, particularly as the tenancy postdates the grant of the standard security.

The Respondent's submissions

23. Mr Marshall said that he did not intend to rely on the Crittall Windows case. It was potentially relevant in circumstances where the lender was aware of the tenancy. He referred to Section 25 of the 1970 Act. There is a duty on a creditor to take reasonable steps to obtain the best price, but the Respondent rejects the suggestion that this supersedes the reasonableness test. The question for the Tribunal is whether it is reasonable to evict. The Tribunal is not under a duty to have regard to the lender's duty. Mr Marshall referred to the Upper Tribunal case Manson and Downie v Turner where Sheriff Collins discussed the reasonableness test by reference to the case of Cumming v Danson. Mr Marshall said that in principle, the reasonableness test conquers all. It is accepted that the heritable creditor has a duty to account to the borrower. There are two important considerations. Firstly, the landlord clearly has no intention of collecting the rent. He has wiped his hands of the property and a claim against the heritable creditor is unlikely. Secondly, whether the Applicant will suffer a shortfall. The duty to get the best price is on the lender. They can answer any claim by saying that they applied to the Tribunal, but the order was refused. Mr Marshall said that he accepts that Section 25 requires the lender to advertise and that the issue for the Tribunal is the sum now owed to the Applicant.

24. Mr Marshall said that the Respondent still seeks an adjournment to see if he can speak to the mortgage advisor to see if an offer from a buy to let landlord

is possible. He proposed a month or so to see if that can be achieved.

25. Ms Masters Good responded to the submission. She said that the owner's interests had to be considered and that the Tribunal ought to consider that. She said that she accepted that there would be a defence if there was a claim by the owner. However, if they sell with the tenant in situ then the owner would be pursued for the shortfall on an unsecured basis.

26. The Legal Member asked both parties for their submissions about a delay in enforcement, in the event that an order is granted. Mr Marshall checked with the Respondent who said that 6 additional months would be helpful. Mr Marshall said that he accepted that might be considered unreasonable but invited the Tribunal to give the Respondent some additional time. Mrs Masters Good said that she could not agree to an additional 6 months in the circumstances, but as the Applicant would not schedule an eviction during the festive period, a delay until 11 January 2026 would not be opposed.

Findings in Fact

27. The Applicant is the heritable creditor of the property.

28. The Respondent is the tenant of the property.

29. The tenancy is a private residential tenancy.

30. The Applicant obtained a decree for recovery of possession of the property from Dundee Sheriff Court Sheriff Court on 9 March 2023.

31. The Applicant served a Notice to leave on the Respondent on 14 December 2023.

32. The Respondent resides at the property with his wife. They are both retired. The Respondent's sole income is state pension and PADP. The Respondent's wife is in receipt of the state pension only.

33. The Respondent and his wife have resided at the property since 2015. They lived there rent free for the first year as they undertook to carry out refurbishment work.

34. The Respondent's current tenancy agreement is a private residential tenancy which he signed in 2022.

35. The rent payable in terms of the tenancy has been £550 per month since 2016.

36. The Respondent has not paid rent since October 2023 as he does not know who should receive the rent. He previously paid the rent to the letting agent who stopped acting for the landlord when the property was re-possessed. The

Respondent receives the sum of £230 per month in terms of housing benefit.

37. The Respondent and his wife want to stay in the property as they like the area.

38. The Respondent has previously refused offers of housing from the Local Authority. They have not obtained alternative accommodation.

39. The Respondent spoke to a mortgage adviser who advised the Respondent that he was not eligible for a mortgage. The adviser stated that he could investigate the possibility of finding a purchaser for the property which would allow them to remain in the property. He has not confirmed if he has identified a purchaser or whether a purchaser would be likely to pay £108,000 for the property.

40. The Applicant has obtained a desktop valuation for the property which indicates that it is currently worth £115,000 with vacant possession. The Applicant has also obtained valuations form auction houses based on selling with a sitting tenant. They recommended £69,000 and £80,000 as guide prices.

41. The Applicant intends to sell the property to recover the sums due by the owner and landlord. The sum currently owed is £108,421.25. Any surplus funds will be paid to the owner of the property.

42. The owner of the property has not made any payments to the mortgage account since August 2024.

Reasons for Decision

43. The application was submitted with a Notice to Leave dated 13 September 2023, together with Sheriff Officer certificate of service which establishes that it was served on the Respondent 14 September 2023. The Notice states that an application to the Tribunal is to be made on ground 2, the property is to be sold by the lender. The Notice states that the earliest date that an application can be made to the Tribunal is 8 December 2023.

44. The application to the Tribunal was made after expiry of the notice period. 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 copy of the Section 11 Notice which was sent to the Local Authority**.** The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.

45. 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.”

46. Ground 2 of schedule 3 (as amended) 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 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 purposes 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."

47. From the documents submitted and the information provided at the CMD and Hearing, the Tribunal is satisfied that the first three parts of the ground have been established. The Applicant is the heritable creditor. The Applicant obtained a decree for recovery of possession of the property and is entitled to sell the let property by virtue of the decree. The Applicant also requires the tenant to leave the property in order to sell it with vacant possession.

48. The Tribunal proceeded to consider whether it would be reasonable to grant the order.

49. Prior to the CMD and first Hearing, the Respondent's representative lodged submissions in relation to the case of Trade Development Bank v Crittall Windows Ltd 1983 SLT 510. He said that this case was authority for the proposition that it would not be reasonable for an eviction order to be granted if the applicant lender knew that there was a tenant in the property because they had been told of the tenancy or it was a buy to let mortgage. The Applicant had lodged a response which stated that this case is not relevant to an application under ground 2 for various reasons. During the hearing, Mr Marshall indicated that he was not insisting on this submission and was not inviting the Tribunal to consider it in relation to the present case. The Tribunal is satisfied, having considered the parties submissions, that the decision in this case is not relevant to the assessment of reasonableness in this case.

50. Having considered the evidence and submissions of the parties the Tribunal concludes that the following factors are relevant to whether it would be reasonable to grant the order: -

(a) The Respondent and his wife want to stay in the property. This is because they like the property and have lived there for 10 years. The have lived in the area for 40 years and have family nearby.

(b) The Respondent and his wife have limited disposable income. They have not found alternative accommodation in the social or private rented sector. They do not believe that they can afford to rent a new property in the private sector. They have previously refused offers of housing from the Local Authority.

(c) The Respondent has not paid rent for three years, since the property was re-possessed. The letting agent stopped collecting the rent and the Applicant has not asked for the rent. The owner and landlord has not been in touch or requested the rent.

(d) Based on the sum currently owed to the Applicant by the landlord, and the current value of the property, a sale with vacant possession is likely to

extinguish the debt and leave a small balance due to the landlord.

(e) Based on the sum currently owed to the Applicant by the landlord, and the current value of the property, a sale with a sitting tenant is likely to lead to a substantial shortfall. The debt will not be extinguished, and the Applicant will have to try to recover the shortfall from the owner.

51. The Tribunal notes that it is for a landlord to establish that it would be reasonable for the Tribunal to grant and order for eviction and not for a tenant to establish that it is unreasonable. In the leading English case Cumming v Danson 1942 2 All ER 653, Lord Greene MR said "In considering reasonableness…it is, in my opinion, perfectly clear that the duty of the judge is to take account of all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad common sense way as a man of the world and come to his conclusions giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive., but it is quite wrong for him to exclude from his consideration matters which he ought to have taken into account."
This case is referred to by Adrian Stalker in his book "Evictions in Scotland". At page 51 he states. "The court ought to take into account the effect of granting or refusing to grant the order on both the landlord and the tenant." He then refers to the case of Cresswell v Hodgeson 1951 2KB 92, at page 95 "the county court judge must look at the effect of the order on each party to it. I do not see how it is possible to consider whether it is reasonable to make an order unless you consider its effect on landlord and tenant, firstly, if you make it, and secondly, if you do not."

52. The Tribunal did not hear oral evidence from the Applicant, but the Respondent did not challenge the accuracy of the information in the affidavit. The affidavit was given by a member of staff who provided the information in the course of her employment. The Tribunal found Mr Barclay to be generally credible but not always reliable. It was apparent that he had some difficulty remembering facts, due to the passage of time. For example, he stated that he had not paid rent for a year, then amended this to two years after consultation with his wife. At the CMD which took place in August 2024, his agent said that he had not paid rent since October 2023. The Respondent was present at the CMD and did not dispute this. This date is consistent with Mr Barclay's evidence about the decision to stop paying rent. He said that this was because he knew the house had been re-possessed. The Tribunal notes that he was served with the Notice to leave on ground 2 in September 2023. The Respondent's evidence about offers of housing also contained discrepancies. In response to questions from Mr Marshall, he initially said that he had been on the Council list for 10 years and had not received an offer. Then he said that he had been offered a tenement flat but that was not suitable. In response to questions from Mrs Masters Good he admitted that he had received 4 or 5 offers from the Council prior to the previous hearing.

53. Although the Respondent's desire to remain in the property is understandable, it is not a compelling factor in his favour. The Tribunal was not provided with

any evidence that establishes that the Respondent and his wife will suffer any serious consequences if they have to move. Although there was no medical evidence of the conditions mentioned at the hearing, the Tribunal found Mr Barclay to be generally credible and there is no reason to doubt what he said. However, although he indicated that he has arthritis and would struggle in an upper flat, the current property is on two levels, and he said that he is able to manage the stairs. There was also no evidence that the property has been adapted or that the Respondent and his wife require adaptations.

54. The absence of alternative accommodation and possible homelessness is a more significant factor in the Respondent's favour. However, unlike many tenants in a similar situation, the Respondent has previously been offered houses by the Council, although an eviction order had not yet been granted. He chose to refuse these offers. The Respondent is also entitled to housing benefit, which should assist with rent, whether he obtains accommodation in the social or private sector. The Respondent's argument that he cannot afford other houses in the private sector, but could afford to stay in the property, is misconceived. His rent has not increased in 10 years. It is highly unlikely that a new landlord would leave the rent at its current rate. The Respondent also told the Tribunal that he has set aside both rent and housing benefit since he stopped paying rent. Again, no evidence was provided. When asked how much had been saved, he stated that the sum of £9000 had been retained in the TSB. The Tribunal notes that three years rent at the rate of £550 should have generated twice that amount. However, even if only some of the rent has been set aside, it could provide the Respondent with funds to help with removal expenses and a deposit, if this is required. In the three years since the repossession, the owner has made no claim. The Tribunal is also not persuaded that the Respondent is concerned about finding alternative housing. He said that he is aware that he will have to apply to the Council and seemed to expect that they will provide accommodation, even if it is not where he and his wife would prefer to live.

55. A significant part of the Applicant's submission was devoted to the rights of the owner of the property and the claim that this should be considered. The Tribunal is not persuaded that the owner's interests are relevant, or that they carry much weight if they are. The Applicant is certainly under an obligation to get the best price, and this undoubtedly means selling with vacant possession. However, no obligations are imposed on the Tribunal by the 1970 Act, and the owner of the property is not a party to the application. If the Tribunal refuses the order, and the Applicant cannot obtain vacant possession, they will have to sell it with the tenants in situ. That appears to be their only option in those circumstances. However, the Tribunal must consider the impact on the Applicant if the application is refused. The evidence established that, if the property is sold with the tenants in occupation, there will be a considerable shortfall. The Applicant has a remedy against the owner, but there is no guarantee that the shortfall would be recovered and the financial loss could be considerable. The Tribunal considered the Respondent's argument and evidence of his attempts to find a buyer. However, the emails submitted only demonstrate that the mortgage advisor said he would investigate the possibility of a buy to let purchaser, not that he thought it likely that he would be successful. Furthermore, it was clear

from Mr Barclay's evidence that the advisor did not confirm that such a purchaser would be likely to pay over £108,000. In fact, he suggested the opposite. The Tribunal also noted that the 1970 Act requires the property to be advertised for sale. The Tribunal is satisfied that the impact on the Applicant if an order is refused is potentially highly detrimental.

56. Weighing up all the relevant factors, the Tribunal is satisfied that the Applicant has established that it would be reasonable to grant the order. On balance, the adverse impact on the Applicant of the order being refused outweighs the consequences for the Respondent if it is granted.

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

58. The Respondent requested a delay in enforcement of 6 months. The Applicant indicated that they would not oppose some additional time as they do not generally enforce eviction orders over the festive period. Having regard to the length of time since the application was first submitted to the Tribunal, and the additional time that has elapsed since the first hearing, the Tribunal is of the view that a short delay only is appropriate. The Tribunal orders a delay in execution of the order until 15 January 2027.

Decision

59. 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.

Josephine Bonnar

Josephine Bonnar, Legal Member **24 October 2026**