



**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/24/1614**

**Re: Property at 199C Main Street, Blantyre, Glasgow, G72 0EL (“the Property”)**

**Parties:**

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

**Ms Omeyemi Elizabeth Lawal and Mr Barbatunde Ezekiel Ojo, residing at 199C Main Street, Blantyre, Glasgow, G72 0EL (“the Respondents”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision (in absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted.**

**Background**

- 1. This is an application for an eviction order in regard to a Private Residential Tenancy (“PRT”) made in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (as amended) (“the Rules”). The PRT is between the Parties and relates to the Property.**
- 2. The application relies upon a Notice to Leave dated 30 January 2024, issued in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondents by Sheriff Officers on 31 January 2024, all in accordance with the provisions of the PRT. The Notice relied upon Ground 2 of Schedule 3 of Part 1 of the 2016 Act, in that “a lender intends to sell the let property”. The Notice to Leave intimated that an application to the Tribunal would not be made before 29 February 2024.**

3. The Application papers included evidence that a section 11 notice, in terms of the Homelessness Etc. (Scotland) Act 2003, had been served upon South Lanarkshire Council by email on 9 April 2024.

#### Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by teleconference on 19 July 2024. The Applicants were represented at the CMD by Ms Katie MacDonald, trainee solicitor.
5. The Respondents did not join the CMD call. The Tribunal were satisfied that the Application, and details of the CMD, had been intimated upon the Respondents by Sheriff Officers on 22 June 2024. The Respondents have not made any written representations to the Tribunal in advance of the CMD. The Tribunal was satisfied that the Respondents have been given reasonable notice of the date, time and place of the CMD and that the requirements of rule 24(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”) had been duly complied with. In the circumstances the Tribunal proceeded with the application in accordance with rule 29 of those Procedure Rules.
6. At the CMD the Tribunal was able to consider:
  - a. Copy Land Certificate in relation to the Property, Title Number LAN199540, which confirmed that the current registered proprietor of the Property is Chatterpal Singh. It further confirmed that the Property is subject to a standard security granted by Chatterpal Singh in favour of the Applicant.
  - b. Copy extract decree granted at Hamilton Sheriff court and granted on 1 March 2023 in favour of the Applicant against Chattarpal Singh. The decree was granted under the Conveyancing and Feudal Reform (Scotland) Act 1970. Chattarpal Singh is the heritable proprietor of the Property and the Landlord of the Respondents. The Decree found, and declared that, *inter alia*, in respect of the Property, Chatterpal Singh was in default in respect of the standard security granted by Chattarpal Singh in favour of the Applicant and that the Applicant has the right to sell the subjects and to enter into possession of the subjects and to exercise all powers competent to a creditor in lawful possession of the subjects under the Conveyancing and Feudal Reform (Scotland) Act 1970.
  - c. A tenancy agreement between the Respondents and Chattarpal Singh. The tenancy agreement was a Private Residential Tenancy Agreement in relation to the Property. That agreement was dated 29<sup>th</sup> August 2023.

**7. Ground 2 of Schedule 3 to the 2016 Act states that:**

***2 Property to be sold by lender***

***(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 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.***

**Findings in Fact and Law**

- 8. The Property is subject to a heritable security. That security is registered against the Property in Title Number LAN199540.**
- 9. The Applicant is the creditor under the heritable security granted over the Property.**
- 10. The Applicant is entitled to sell the Property in terms of decree granted under the Conveyancing and Feudal Reform (Scotland) Act 1970 at Hamilton Sheriff Court on 1 March 2023**
- 11. The Applicant requires the Respondents to leave the Property for the purpose of disposing of it with vacant possession.**
- 12. The Applicant has issued a Notice to Leave dated 30 January 2024 in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondent by Sheriff Officers on 31 January 2024.**
- 13. The Applicant has raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 2 of Schedule 3 of the 2016 Act, in terms of an Application to the Tribunal dated 9 April 2024.**
- 14. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon South Lanarkshire Council on the Applicant's behalf on 9 April 2024.**
- 15. It is reasonable to issue an eviction order.**

## **Reasons for Decision**

- 16. The Tribunal were satisfied on the basis of the application and supporting papers that the Applicants were entitled to sell the Property and to require the Respondents to leave the Property for the purposes of disposing it with vacant possession.**
- 17. Notice to Leave had been competently drafted and served upon the Respondent.**
- 18. The Tribunal were satisfied that it had had sufficient information upon which to make a decision at the CMD, having considered information made available by the Applicant. The Rules allow, at rule 17(4), for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal.**
- 19. The Tribunal then considered whether it was reasonable to issue an eviction order under paragraph 2 (d) of Ground 2.**
- 20. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties**
- 21. In this case the Tribunal finds that it is reasonable to grant the order.**
- 22. At the CMD the Applicant's representative advised the Tribunal that the Applicant required vacant possession of the Property to allow the Property to be sold. She further confirmed that the Applicants required to sell the Property to allow them to recover sums due by the owner of the property in terms of the standard security which the owner had granted over the Property and upon which the owner had defaulted. At the time the Respondents were served with the Notice to Leave the Property the Respondents had advised the sheriff officers, who had served the notice, that they were actively looking for alternative property. The Applicant had provided the Respondents with details of where they could seek support and advice in relation to the application. The Applicant had attempted to contact the Respondent to discuss the requirement for them to remove from the Property, but the Respondents had failed to respond to the Applicant's attempts to engage with them in that respect.**
- 23. The Tribunal consider that it is reasonable to grant the eviction order. In reaching a decision on whether it was reasonable to grant the order sought the Tribunal took account of the fact that the Respondents despite being given an opportunity to submit written representations to the Tribunal and to attend the CMD had chosen to do neither.**
- 24. On the basis of the evidence provided to the Tribunal, the balance of reasonableness is weighted towards the Applicant.**

**25. The Tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.**

**26. The Tribunal consider that in the circumstances of the case it would be appropriate to allow the Respondents a period of two months to remove from the Property to allow them the opportunity to seek alternative accommodation. Ms MacDonald, on behalf of the Applicant, did not oppose the Tribunal's proposal to allow the Respondents a period of 2 months to remove from the Property. Accordingly, the Tribunal have determined that the order for possession should not be executed prior to 12 noon on 22 September 2024.**

#### **Decision**

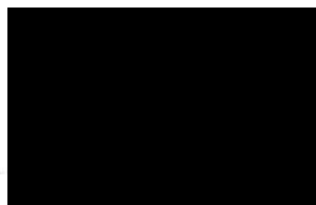
**27. In all the circumstances, the Tribunal grant an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.**

**28. The decision of the Tribunal is unanimous.**

#### **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.**

**Andrew Cowan**



**22 July 2024**

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**Legal Member/Chair**

**Date**