



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/24/4871

Re: Property at 9D Bridge Street, Kirkcaldy, Fife, KY1 1TE (“the Property”)

Parties:

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

Ms Laura Natalia Colompar, 9D Bridge Street, Kirkcaldy, Fife, KY1 1TE (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. On 22nd October 2024 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 2 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Tenancy Agreement showing a commencement date of 8th June 2023 and a rent of £450 per month;
 - ii. Decree from Kirkcaldy Sheriff Court dated 24th January 2023 granting the Applicant the right to repossess the property;

- iii. Copy Notice to Leave dated 16th April 2024;
 - iv. Sheriff Officer intimation of service dated 24th April 2024 serving the Notice to Leave;
 - v. Section 11 Notice and proof of service.
3. The Tribunal's administration downloaded a copy of the title deeds to the property which revealed that the property is owned by Renato Sartello and he granted a security to the Applicant over the property on 27th July 2010.
4. The Application was served on the Respondent by Sheriff Officers on 24th February 2025.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Miss Masters of Aberdeen Considine, Solicitors. There was no attendance by the Respondent or any representative on her behalf.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
7. Miss Masters sought an order for eviction in terms of ground 2 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She explained that the Applicant was the heritable creditor and a decree for possession had been granted at Kirkcaldy Sheriff Court in January 2023. A Notice to Leave was served on the respondent by Sheriff officers and expired on 18th July 2024. She.
8. In relation to reasonableness Miss Masters said that the Applicant had a statutory obligation to sell the property for the best possible price. She had some details about the Respondent, which had been obtained by the Sheriff Officers on their various visits to the property. She said that Sheriff Officers visited the property in April 2024 and reported that the Respondent was living at the property with her teenaged daughter. The Respondent is Romanian and only has limited English, and the daughter translated for her. Sheriff Officers returned and served the Notice to Leave in July 2024. The daughter confirmed that they had been in touch with the local authority. The Sheriff Officers returned on 23rd April 2025 to check if the Respondent was still there. They reported that she is still there. Miss Masters said that after learning that the Respondent was Romanian all documents sent to her were translated in to Romanian and copies in both languages were given to her. She said that she was not aware of any adaptations having made to the property to accommodate any disability.

Findings in Fact

- a. The Respondent entered into a Private Residential Tenancy Agreement with Renato Sartterello in respect of the property;
- b. Renato Sartello is the owner of the property;
- c. Renato Sartello secured a mortgage with the Applicant over the property
- d. The tenancy commenced on 8th June 2023;
- e. On 24th January 2023 the Applicant was granted an order for possession of the property at Kirkcaldy Sheriff Court;
- f. A Notice To Leave, dated 16th April 2024, was served timeously and correctly;
- g. A section 11 notice was served on the local authority;
- h. The Application was served on the Respondent by Sheriff Officer on 24th February 2025;
- i. The Respondent lives in the property with her teenaged daughter.

Reasons for Decision

9. Ground 2 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 states as follows:

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 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.

10. The Tribunal is satisfied that parts 2(a), (b) and (c) of Ground 2 have been met. The Tribunal is also satisfied that it reasonable to grant the eviction order. The Applicant does have a statutory obligation to sell the property for the best possible price and they require vacant possession to achieve that. This fact in itself makes it reasonable to grant the Order. In addition, the Respondent has not offered any opposition.

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.



Legal Member/Chair

Date: 1st May 2025