



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/24/4925

Re: Property at 57 Findowrie Place, Dundee, Angus, DD4 9NR ("the Property")

Parties:

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

Ms Audrey Stewart, 57 Findowrie Place, Dundee, Angus, DD4 9NR ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion ("CMD") which took place by telephone conference on 12 May 2025, the Applicant was not in attendance but was represented by Ms Katie Macdonald of Aberdeen Considine, Solicitors. The Respondent was not present or represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that –

Background

The Tribunal noted the following background:-

- i. The application concerns a Private Residential Tenancy ("PRT") entered into between the Mr Lloyd Scott and the Respondent relative to the Property that commenced on 9 October 2022.
- ii. By Decree of the Sheriff at Dundee Sheriff Court dated 29 February 2024 and extracted on 15 March 2024 Mr Lloyd Scott was declared to be in default within the meaning of Standard Condition 9(1) of Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 and the Applicant was found to be entitled to sell the Property and to enter into possession of the Property and to exercise all

- powers competent to a creditor in lawful possession of the subjects under the Conveyancing and Feudal Reform (Scotland) Act 1970.
- iii. On 3 July 2024, the Applicant served on the Respondent a Notice to Leave requiring the Respondent remove from the Property by 26 September 2024 on the basis of Ground 2 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
 - iv. The Applicant has served on Dundee City Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms Macdonald for the Applicant made the following oral submissions:-

- i. The Tribunal noted the Title Sheet for the Property and the Standard Security referred to therein to be in the names of Mr Lloyd Scott and Nicola Ann Scott. Ms Macdonald confirmed Nicola Ann Scott had died on 24 November 2008. As the title to the Property contained a survivorship destination, title was thereafter held in Mr Lloyd Scott's name alone.
- ii. The Applicant had not collected rent from the Respondent and was not aware of whether the Respondent had continued to pay rent to Mr Scott.
- iii. The Applicant has no information regarding the Respondent's circumstances.
- iv. On 6 May 2025 Ms Macdonald spoke with the Respondent's housing adviser at Dundee City Council who confirmed the Respondent now has alternative accommodation and whilst no firm date is set for her removal from the Property she is expected to remove within the next couple of weeks. Ms Macdonald said this probably explained the Respondent's non-attendance at the CMD.

Findings in Fact

The Tribunal made the following findings in fact:-

- i. Title to the Property bears to be in the names of Mr Lloyd Scott and Nicola Ann Scott.
- ii. Nicola Ann Scott died on 24 November 2008.
- iii. Mr Lloyd Scott and the Respondent entered into the PRT relative to the Property that commenced on 9 October 2022.
- iv. By Decree of the Sheriff at Dundee Sheriff Court dated 29 February 2024 and extracted on 15 March 2024 Mr Lloyd Scott was declared to be in default within the meaning of Standard Condition 9(1) of Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 and the Applicant was found to be entitled to sell the Property and to enter into possession of the Property and to exercise all powers competent to a creditor in lawful possession of the subjects under the Conveyancing and Feudal Reform (Scotland) Act 1970.
- v. On 3 July 2024, the Applicant served on the Respondent a Notice to Leave requiring the Respondent remove from the Property by 26 September 2024 on the basis of Ground 2 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- vi. The Applicant has served on Dundee City Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vii. The Applicant requires to sell the Property and requires vacant possession to do so.
- viii. The Respondent has secured alternative accommodation.

Reasons for decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally by Ms Macdonald at the CMD was not challenged and was accepted by the Tribunal.

The application proceeds upon Ground 2 of Schedule 3 of the 2016 Act.

Ground 2 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 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."*

The Property is subject to a heritable security in favour of the Applicant. The Applicant is entitled to sell the Property by virtue of the Extract Decree of the Sheriff at Dundee Sheriff Court dated 15 March 2024. The Applicant requires vacant possession of the Property in order to dispose of it.

The Respondent has secured alternative accommodation to which she will shortly be removing.

It is reasonable that an eviction order be granted against that backdrop.

Decision

The Tribunal granted an eviction order against the Respondent in favour of the Applicant in terms of Ground 2 of Schedule 3 of the 2016 Act.

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.

Gillian Buchanan

Legal Member/Chair

20 May 2025
Date