

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**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/24/5150**

**Re: Property at 3 Malthouse Apartments, Ground Floor, 58 Nethergate, Dundee, Also Known as Royal Apartments, DD1 4EN (“the Property”)**

**Parties:**

**Bank of Scotland PLC, The Mound, Edinburgh, EH11 1YZ (“the Applicant”) and**

**Aberdein Considine, Solicitors, 18 Waterloo Street, Glasgow, G2 6DB (“the Applicant’s Representative”) and**

**Ms Blessing Chioma Obiwuma, 3 Malthouse Apartments, also known as Royal Apartments, Ground Floor, 58 Nethergate, Dundee, , DD1 4EN (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**A Khan - Ordinary Member**

**Decision in absence of the Respondent**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines to grant an eviction order.**

### **Background**

1. This is an Application for an eviction order in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. Bank of Scotland Plc’s Representative had provided the Tribunal, in the Application, with copies of the Decree, for possession and sale, granted in favour of the Applicant Bank of Scotland Plc at Dundee Sheriff Court on 2<sup>nd</sup> November 2023, the Notice to Leave “NTL”) served on the Respondent Ms Obiwuma and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Dundee City Council. All of these documents and forms had been correctly and validly

prepared, and issued, in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. No written copy of any tenancy agreement was provided. The Applicant's Representative had advised that the NTL was served on the basis of information provided by the Respondent Ms Obiwuma to Sheriff Officers when they conducted an occupancy check on 27<sup>th</sup> May 2024.

3. The Application papers and Guidance Notes had been served upon the Respondent by Sheriff Officers on 8<sup>th</sup> April 2025.
4. The Respondent Ms Obiwuma had not lodged any representations in respect of the Application.

### **Case Management Discussion**

5. A Case Management Discussion ("CMD") proceeded by remote teleconference call at 10am on 14<sup>th</sup> July 2025. The Applicant's Representative's Ms K Macdonald attended. The Respondent Ms Obiwuma did not attend and was not represented. There was no explanation for her absence.
6. Ms Macdonald referred to the Application and stated that the Applicant Bank of Scotland Plc sought to recover vacant possession of, and sell, the Property. She stated that she was unaware of Ms Obiwuma's personal circumstances. Ms Macdonald said that she had recently been contacted by Ms Obiwuma who stated that she was vacating the Property on 5<sup>th</sup> July 2025. Ms Macdonald further stated that the Applicant Bank of Scotland Plc had also been recently contacted by the Attorney of the Bank's mortgage customer, Mr C Singh, and told that a new tenant had begun a tenancy of the Property on 3<sup>rd</sup> July 2025. She said that Sheriff Officers carried out an occupancy check at the Property on 7<sup>th</sup> July 2025, which was inconclusive. Ms Macdonald asked the Tribunal to grant an eviction order against the Respondent Ms Obiwuma.

### **Findings in Fact and Law and Reasons for Decision**

7. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
8. Schedule 3 (2) (1) of the 2016 Act provides that it is an eviction ground that a lender intends to sell the let property.
9. The Tribunal considered all of the Application papers, as well as the submission of Ms Macdonald.
10. Ms Obiwuma had not lodged representations with the Tribunal regarding the reasonableness of the grant of an eviction order or attended the CMD to provide any evidence, and/or make any submission, to oppose, and contradict the basis for the order sought by Bank of Scotland Plc.

11. Having considered all of the evidence and Ms Macdonald's submission, the Tribunal finds in fact that Bank of Scotland Plc intends to sell the property. The Tribunal finds in law that the ground in Schedule 3 (2) (1) of the 2016 Act is met and determines that it is reasonable that an eviction order be granted.

### **Decision**

12. The Tribunal therefore makes an eviction order as sought in this Application.

### **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.

# G McWilliams

14<sup>th</sup> July 2025

Legal Member

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Date