



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 109 of the Procedure Rules.**

**Chamber Ref: FTS/HPC/EV/25/0684**

**Re: 7C Hindmarsh Avenue, Dundee, DD3 7LX ('the Property')**

**Parties:**

**Aileen Galvin 16/4 Montagu Terrace, Edinburgh, EH3 5QR ('the Applicant')**

**Ms Jacqueline Anderson, Robertson Property Management Limited ('The Applicant's Representatives')**

**Danny Timmons residing at 7C Hindmarsh Avenue, Dundee, DD3 ('the Respondent')**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')**

**Tribunal Members: Jacqui Taylor (Legal Member) Elaine Munroe (Ordinary Member)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the order for possession of the Property be granted.**

## **1. Background**

1.1. The Applicant submitted an application to the Tribunal for eviction/ possession of the Rented Property under section 51(1) of the Private Housing Tenancies (Scotland) Act 2016, in terms of Rule 109 of the Procedure Rules.

1.2 The application was dated 18<sup>th</sup> February 2025. The application states that the ground for eviction was as follows: 'Landlord requires repossession of Property in order to put it on the market for sale.'

1.3 Documents lodged with the Tribunal were:-

- The Private Residential Tenancy Agreement between the parties dated 16<sup>th</sup> November 2021.

- Notice to Leave dated 21<sup>st</sup> November 2024 advising the Tenant that an application will not be submitted to the Tribunal for an eviction before 16<sup>th</sup> February 2025 and the eviction ground is that the Landlord intends to sell the Property.
- Email from the Landlord's Representative to the Tenant dated 21<sup>st</sup> November 2024 sending him the Notice to Leave.
- Email from the Tenant to the Landlord's Representative dated 23<sup>rd</sup> February 2025 advising them of the Tenant's new email address.
- A letter from Lindsay's solicitors dated 19<sup>th</sup> November 2024 confirming that they have been instructed to act for the Landlord in connection with the sale of the Property.
- Email to Dundee City Council dated 18<sup>th</sup> February 2025 attaching the Section 11 Notice.
- Section 11 Notice addressed to Dundee City Council.

2. By Notice of Acceptance by Nicola Irvine, Convener of the Tribunal, dated 29<sup>th</sup> April 2025 she intimated that he had decided to refer the application (which application paperwork comprises documents received between 18<sup>th</sup> February and 10<sup>th</sup> April 2025) to a Tribunal.

3. The Respondent did not provide any written representations.

#### **4. Case Management Discussion**

This case called for a conference call Case Management Discussion (CMD) at 10.00 on 16<sup>th</sup> July 2025.

The Applicant's representative attended the CMD. The Respondent did not attend and was not represented.

The Respondent had been served with a letter advising him of the CMD by Roger Ewen, Sheriff Officer, dated 23<sup>rd</sup> May 2025. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

##### **4.1 Oral Representations by the Applicant's Representative:**

4.1.1 The Tenant has been in arrears with the rent payments since August 2023. The Landlord has a mortgage over the Property and has had to fund the mortgage payments when the rent payments have not been made. The monthly mortgage payments are £365 per month. She can no longer afford to pay the mortgage payments given the level of the rent arrears and needs to sell the Property.

4.1.2 The current arrears amount to £2907. The Tenant started making payments of approximately £20 per month towards the arrears on 5<sup>th</sup> May 2025.

4.1.3 The Tenant is believed to be employed. He has ignored correspondence that has been sent to him.

4.1.4 The Tenant is 36 years of age. His daughter occasionally stays with him in the Property.

4.1.5 Ms Anderson advised that in the circumstances it was reasonable for the eviction to be granted.

## **5. Decision**

### **5.1 Requirements of Section 109 of the Procedure Rules.**

**(a)** The Tribunal determined that the application correctly detailed the requirements of section 109(a) of the Procedure Rules namely:-

(i) the name, address and registration number of the Landlord.

(ii) the name and address of the Landlord's representative.

(iii) the name and address of the Tenant.

(iv) the ground of eviction. The ground stated in the application is that the Applicant intends to sell the Property.

The Tribunal accepted that this is Ground 1 of Schedule 3 of the 2016 Act.

**(b)** The Tribunal determined that the application correctly detailed the requirements of Section 109(b) of the Procedure Rules:

(i) evidence showing that the eviction ground or grounds had been met.

The letter from Lindsay's solicitor dated 19<sup>th</sup> November 2024 that has been produced is sufficient in its terms.

(ii) a copy of the notice to leave given to the Tenant as required by section 52(3) of the 2016 Act.

The Tribunal confirmed that the Notice to Leave was in correct form as set out in Schedule 5 of the Private Residential Tenancies Notices and Forms (Scotland) Regulations 2017 ('The 2017 Regulations').

The Notice to Leave was dated 21<sup>st</sup> November 2024 and advised the Tenant that an application would not be submitted to the Tribunal for an eviction order before 16<sup>th</sup> February 2025.

The commencement date of the lease was 1<sup>st</sup> December 2021. The Tenant had resided in the Property for more than six months and the application for eviction was based on ground 1 of Schedule 3 of the 2016 Act and therefore eighty four days notice was required. The Notice to Leave had been served on the Tenant by email on 21<sup>st</sup> November 2024. The Notice to Leave correctly gave the Tenant a minimum of eighty four days notice.

(iii) a copy of the notice given to the local authority as required by Section 56(1) of the 2016 Act.

The Tribunal determined that a copy of the required notice had been provided.

(c) The Tribunal confirmed that the application form had been correctly signed and dated by the Landlord's representatives as required by Section 109(c) of the Procedure Rules.

**5.2** The Tribunal determined that the Applicant had met the requirements of Ground 1 of Schedule 3 The Private Housing Tenancies (Scotland) Act 2016 for the following reasons:

5.2.1 The Tribunal had a copy of the Landlord's title (ANG26261) and established that the Applicant is heritable proprietor of the Property and she is entitled to sell the Property.

5.2.2 Evidence had been provided that the Applicant intend to sell the Property. The Tribunal accepted the letter from Lindsay's solicitors dated 19<sup>th</sup> November 2024.

5.3 The Tribunal find as a matter of fact that the Applicant intends to put the Property up for sale once she obtains vacant possession.

5.4 The Tribunal were mindful of the decision of Lord Greene in the case of *Cummings v Dawson* (1942) 2 All ER 653 on matters to consider when determining reasonableness:

*'In considering reasonableness... it is my opinion, perfectly clear that the duty of the judge is to take into account 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 to come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or more weight, others may be decisive.'*

The Tribunal found that it was reasonable for the eviction order to be granted given the fact that the Applicant needs to sell the Property to enable her to redeem the outstanding mortgage, the level of rent arrears and the fact the Respondent has not lodged any written representations opposing the eviction application.

5.5 The Tribunal granted the eviction.

5.6 The decision of the Tribunal was unanimous.

## **6. 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.**

# Jacqui Taylor

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**Legal Member**

**16<sup>th</sup> July 2025**