



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/24/5652

Re: Property at 359 Braehead, Alexandria, G83 9NG (“the Property”)

Parties:

Intrum Mortgages UK Finance Limited, Belvedere, 12 Booth Street, Manchester, M2 4AW (“the Applicant”)

Miss Natasha Burgess, 359 Braehead, Alexandria, G83 9NG (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 359 Braehead, Alexandria, G83 9NG under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees, and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

Background

- 1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The Applicant’s case is**

based on Ground 2 (Property to be sold by Lender) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act").

2. The application was accompanied by a copy email from the Respondent dated 3 April 2024, copy title sheet - DMB50856, a Notice to Leave dated 5 April 2024 together with a Recorded Delivery proof of delivery dated 6 April 2024, an extract decree of repossession from Dumbarton Sheriff Court dated 26 September 2023 and extracted on 18 December 2023, a Form BB dated 12 April 2023 together with a signed execution of service and copy Recorded Delivery slip and a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with an email to West Dunbartonshire Council dated 9 December 2024.
3. On 29 March 2025 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 27 June 2025. This paperwork was served on the Respondent by Chelsea Murray, Sheriff Officer, Glasgow on 1 April 2025 and the Execution of Service was received by the Tribunal administration.

Case Management Discussion

4. The Tribunal proceeded with the CMD on 27 June 2025 by way of teleconference. The Applicant was represented by Caitlin Bell, from TLT LLP, solicitors. There was no appearance by or on behalf of the Respondent despite the CMD starting 5 minutes late to allow him plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
5. The Tribunal had before it the copy email from the Respondent dated 3 April 2024, copy title sheet - DMB50856, the Notice to Leave dated 5 April 2024 together with the Recorded Delivery proof of delivery dated 6 April 2024, the extract decree of repossession from Dumbarton Sheriff Court dated 26 September 2023 and extracted on 18 December 2023, the Form BB dated 12 April 2023 together with a signed execution of service and copy Recorded Delivery slip and the Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with the email to West Dunbartonshire Council dated 9 December 2024. The Tribunal noted the terms of these documents.
6. The Tribunal confirmed that it had read the application papers. In terms of the application the Tribunal noted that the Applicant was the heritable creditor of the Property and that the Respondent had entered into a Private Residential Tenancy with her landlord, (Calum Watt otherwise known as Calum MacLean Watt), on or around 20 October 2020, but that the Applicant had been unable to retrieve a copy of the tenancy agreement.

7. The Tribunal had further noted that prior to granting the tenancy, Calum Watt (otherwise known as Calum MacLean Watt), granted a standard security in favour of Edeus Mortgage Creators Limited to which Intrum Mortgages UK Finance Limited, the Applicant (formerly known as Mars Capital Finance Limited) have right conform to an assignation registered on 5 August 2014, which said security was registered in the Land Register of Scotland under Title Number DMB50856 on 25 January 2008. The Tribunal also noted the Applicant had obtained decree for possession of the Property against Calum Watt (otherwise known as Calum MacLean Watt) at Dumbarton Sheriff Court on 26 September 2023, that the Applicant's solicitors wrote to the Respondent notifying her of the decree obtained by the Applicants, that the Respondent had advised she would require to rely on social housing and that she had attempted to secure alternative accommodation however has not been able to do so. The Respondent also confirmed to the Applicant's solicitors her tenancy start date of 20 October 2020 by way of the email dated 3 April 2024
8. Ms Bell submitted that the Applicant required vacant possession in order to enforce the Decree the Applicant had obtained against the Landlord. There had been no further correspondence from the Respondent, and she had no further information regarding the Respondent's circumstances. She submitted that in all the circumstances it was reasonable to evict. She was not aware the Respondent had any vulnerabilities and advised the Property was a two bedroomed property. In response to questioning by the Tribunal she was unsure whether rent was being paid.

Reasons for Decision

9. The Tribunal considered the issues set out in the application together with the documents lodged in support and Ms Bell's submissions. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 2, namely the Property is to be sold by the Lender. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict.
10. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.
11. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicant's intention to sell the Property at Part 2 of the Notice in terms of Ground 2 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an

application for an eviction order and specifies a date in terms of Section 54(2) in this case 1 July 2024. The Notice to Leave was served on the Respondent on 5 April 2024. In terms of Section 54 the notice period of the Notice to Leave is 84 days the Respondent having lived in the Property for more than 6 months. The Notice to Leave stated the earliest date the Applicant could apply to the Tribunal was 1 July 2024. In the circumstances the Tribunal is satisfied the Respondent has been given sufficient notice. Accordingly, the Notice to Leave complies with Section 62.

12. The Tribunal considered the submissions made by Ms Bell on behalf of the Applicant. The Tribunal was satisfied on the basis of the documents lodged, together with Ms Bell's submissions that the factual basis of the application had been established in relation to Ground 2 and was satisfied the Applicant intended to sell the Property as soon as they regained possession. The Tribunal accepted, based on the documents provided by the Applicant, that a standard security had been granted in their favour by Calum Watt over the Property, that a calling up notice had been served on Mr Watt after his default, and that the Applicant had a sheriff court decree that entitled them to recover possession and sell the Property. The Tribunal further accepted that the Applicant required vacant possession of the Property to achieve the best market price.
13. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicant's intention was to sell the Property when they obtained possession and that they required vacant possession to do so. The Respondent on the other hand had not been in contact with the Applicant and had not participated in the current proceedings. On balance the Tribunal considered the balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order.
14. In the circumstances the Tribunal considered that in terms of Ground 2 of Schedule 2 it was reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

Decision

15. The Tribunal granted an order for repossession. The decision of the Tribunal was 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.

S Evans

27 June 2025

Legal Member

Date