

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/25/0038

Re: Property at 87 Findowrie Street, Dundee, Angus, DD4 9NW (“the Property”)

Parties:

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

**Ms Debbie Ross, Charles Rodger, 87 Findowrie Street, Dundee, Angus, DD4
9NW (“the Respondents”)**

Tribunal Members:

Graham Harding (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondents from the property but that enforcement of the order should be suspended for a period of six months from the date of the decision.

Background

1. By application dated 11 December 2024 the Applicant’s representative, Aberdein Considine, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 2 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, copy decree against the landlord, copy Form BB to Respondents, Notice to Leave with execution of service and a Section 11 Notice in support of the application.
2. By Notice of Acceptance dated 3 February 2025 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 16 April 2025.

The Case Management Discussion

4. A CMD was held by teleconference on 16 July 2025. The Applicant was represented by Ms Ellen Masters from the Applicant's representatives. The Respondents attended in person.
5. The Tribunal noted from Mr Rodgers that although the Respondents commenced a Private Residential tenancy of the property on 1 October 2022 at a rent of £625.00 per calendar month, they had previously been tenants under a Short Assured tenancy for a total of seventeen years.
6. Mr Rodgers confirmed that the Respondents had been served with a Notice to Leave under Ground 2 of Schedule 3 of the 2016 Act by Sheriff Officers on 8 August 2024 and the Tribunal noted that a Section 11 Notice had been sent to Dundee City Council intimating the proceedings.
7. Ms Masters confirmed that proceedings had been raised against the Respondents' landlord, Mr Lloyd Scot after he had defaulted on payment of the standard security granted over the property and decree obtained in Dundee Sheriff Court on 28 March 2024 granting the Applicant right to sell the property.
8. The Tribunal ascertained from Mr Rodgers that the Respondent were not taking issue with the validity of the notices served on them but that they were opposing the application as they were unable to find alternative accommodation. Mr Rodgers explained that the Respondents had six children living in the property with them, three girls aged 3, 9 and 20 and three boys aged 7, 14 and 16. Mr Rodgers went on to explain that he had been in contact with the Homeless Unit at Dundee City Council and registered for housing with the local housing associations but had been unable to make any progress with being rehoused. Mr Rodgers said he had approached the Applicant's solicitors to see if he could purchase the property but had been told that was not possible. Ms Masters explained that in terms of the legislation the Applicant was obliged to market the property for sale on the open market but that the Respondents could have tried to purchase the property from Mr Scott, the owner. Mr Rodgers explained that Mr Scott had disappeared and was not contactable.
9. In response to a query from the Tribunal Mr Rodgers said he had his own small roofing company and his wife was employed as a counter assistant. He said their present accommodation consisted of three bedrooms and that private rentals of equivalent properties in the area were costing £1300.00 to £1500.00 per month and that this was beyond

what the Respondents were able to afford to pay and they were therefore reliant on obtaining local authority or housing association accommodation but that suitable sized accommodation was in short supply.

10. In response to a query from the Tribunal Ms Masters indicated that in principle the Applicant would not object to an order for eviction being suspended for a period to give the Respondents some time to be rehoused by the local authority and that she had previously had orders granted with a period of three months suspension and the maximum had been six months.
11. Mr Rodgers said that if an order for eviction was granted with a longer suspended period for enforcement he hoped that would give the local authority time to find suitable accommodation and avoid the family going into bed and breakfast accommodation.

Findings in Fact

12. The Respondents commenced a Private Residential Tenancy of the property on 1 October 2022 having previously been tenants under a Short Assured tenancy for seventeen years.
13. The Applicant obtained decree in Dundee Sheriff Court against the Respondent's landlord, Mr Lloyd Scott, following service of a calling-up notice, on 28 March 2024.
14. A Notice to Leave under Ground 2 of Schedule 3 of the 2016 Act was served on the Respondents on 8 August 2024.
15. A Section 11 Notice was sent to Dundee City Council on 12 January 2024.
16. The Applicant is entitled to sell the property with vacant possession.
17. The Respondents live in the property with their 6 children aged 3, 7, 9, 14, 16 and 20.
18. The Respondents' four younger children attend the local nursery and school.
19. The Respondents are in employment but could not afford to pay increased private rents in the area.

20. The Respondents have applied to the local authority and local housing associations for housing but have been unable to progress their applications until an order for eviction was granted.

Reasons for Decision

21. The Tribunal was satisfied from the documents submitted and the oral submissions of both parties that the parties entered into a Private Residential tenancy that commenced on 1 October 2022 having previously been long standing tenants of the property under a Short Assured tenancy. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 2 of Schedule 3 of the 2016 Act following the granting of a decree against the Respondents' landlord in Dundee Sheriff Court on 28 March 2024 and that proper intimation of the proceedings had been given to Dundee City Council by way of a Section 11 Notice.
22. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondents from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that neither party took any issue with the other party's position as stated by them. The Tribunal therefore had to balance the needs of the Applicant with the needs of the Respondent in arriving at a decision. The Applicant had not entered into possession of the property and was entitled to sell the property. On the other hand, the Tribunal had to take account of the needs of the Respondents who had to care for their six children four of whom were still attending the local school. Furthermore, the Respondents had limited income and were unable to find suitable private rented accommodation at a rent they could afford and were therefore dependant on obtaining local authority or housing association accommodation. Suitable accommodation of sufficient size to meet the Respondents' family's needs was in short supply and was likely to take some time to find. The Applicant's representative did not object to the Tribunal suspending enforcement of an order for eviction in order to give the Respondents some time to be rehoused by the local authority who will hopefully take action if an order for eviction is granted.
23. After carefully considering the facts the Tribunal was persuaded that although there would undoubtedly be an adverse impact on the Respondents and their family it was reasonable to grant the order but that enforcement of the order should be suspended for a period of six months from the date of the decision to give the Respondents sufficient time to obtain alternative accommodation and that having granted an order for eviction, they would receive priority for rehousing given that they have young children living with them.

Decision

24. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from the property but that enforcement of the order be suspended for a period of six months from the date of the decision.

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.

**Graham Harding
Legal Member/Chair**

**16 July 2025
Date**