

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/25/0193

Re: Property at 108 Findhorn Place, Dundee, DD4 9PF (“the Property”)

Parties:

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

Mr Scott Soutar, 108 Findhorn Place, Dundee, DD4 9PF (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

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 Respondent from the property.

Background

1. By application dated 16 January 2025 the Applicant’s representative, Aberdeen 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 17 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 30 April 2025.

The Case Management Discussion

4. A CMD was held by teleconference on 29 July 2025. The Applicant was represented by Ms Ellen Masters from the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondent determined to proceed in his absence.
5. 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. Ms Masters also confirmed that a Form BB had been served on the Respondent in September 2023 and that a Notice to Leave had been served on the Respondent by Sheriff Officers on 11 October 2024 and also that a Section 11 Notice had been sent to Dundee City Council advising them of the proceedings.
6. Mrs Masters advised the Tribunal that there had been no direct contact with the Respondent but that when Sheriff Officers had attended at the property on 8 January 2025 the Respondent had advised them that he had been in contact with Dundee Council to apply for accommodation. Mrs Masters also advised the Tribunal that when Sheriff Officers returned to the property on 14 July 2025 to check if the Respondent was still living in the property, he had told them that he had been shortly due to view another property. Mrs Masters confirmed the property was an upper flat but could not say if the Respondent had any family living with him although she did think the Sheriff Officers would have mentioned it if the Respondent did have family with him. Mrs Masters was also unable to say if the Respondent was continuing to pay rent to the landlord.
7. Mrs Masters asked the Tribunal to grant the order sought.

Findings in Fact

8. The Respondent commenced a Private Residential Tenancy of the property on 1 October 2019.
9. The Applicant obtained decree in Dundee Sheriff Court against the Respondent's landlord, Mr Lloyd Scott, following service of a calling-up notice, on 11 April 2024.

10. A Notice to Leave under Ground 2 of Schedule 3 of the 2016 Act was served on the Respondents on 11 October 2024.
11. A Section 11 Notice was sent to Dundee City Council on 17 January 2025.
12. The Applicant is entitled to sell the property with vacant possession.
13. The Respondent continues to live in the property.
14. The Respondent has advised Sheriff Officers that he has contacted Dundee City Council for accommodation.
15. The Respondent has advised Sheriff Officers that he intends viewing another property in the near future.

Reasons for Decision

16. The Tribunal was satisfied from the documents submitted and the oral submissions of Mrs Masters that the Respondent entered into a Private Residential tenancy that commenced on 1 October 2019. 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 Respondent's landlord in Dundee Sheriff Court on 11 April 2024 and that proper intimation of the proceedings had been given to Dundee City Council by way of a Section 11 Notice.
17. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent 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 despite being given an opportunity to submit written representations and to attend the CMD, the Respondent had chosen to do neither. From the limited information available to the Tribunal, it appeared that the Respondent was actively seeking alternative accommodation. The Applicant had not entered into possession of the property and was entitled to sell the property. In the circumstances the Tribunal was satisfied that it was reasonable to grant the order sought.

Decision

18. 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.

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

**Graham Harding
Legal Member/Chair**

**29 July 2025
Date**