



**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/24/5208

Re: Property at 48 Finmore Street, Dundee, DD4 9LU (“the Property”)

Parties:

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

Ms Louise Scott, 48 Finmore Street, Dundee, DD4 9LU (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 2 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) had been met and it would be reasonable to make an eviction order.

The Tribunal therefore made an eviction order under section 51 of the said 2016 Act.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 2 as the ground for possession, stating that the lender intended to sell the property.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 9 July 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 8 April 2025.
- 3 Both parties were invited to make written representations in advance of the CMD. The Tribunal received no written representations from either party.

The CMD

- 4 The CMD took place by teleconference on 9 July 2025 at 2pm. Miss Ellen Masters of Aberdeen Considine Solicitors represented the Applicant. The Respondent did not join the call. Miss Masters advised that she had last heard from the Respondent by email on 4 July 2025. The Respondent had advised that she was still in the property with her family and was waiting for the council to allocate her a house. She had given no indication of her intentions regarding the CMD. The Tribunal delayed the start time of the CMD to give the Respondent the opportunity to join before determining to proceed in her absence, noting that she had received proper notice under Rule 17(2) of the Rules.
- 5 The Tribunal had the following documents before it:-
 - (i) Form E application form;
 - (ii) Title sheet ANG49857;
 - (iii) Private residential tenancy agreement between the Respondent and Lloyd Scott;
 - (iv) Extract Decree dated 14 March 2024 in favour of the Applicant against Lloyd Scott;
 - (v) Notice to leave together with proof of delivery upon the Respondent by sheriff officers;
 - (vi) Section 11 notices to Dundee City Council and proof of delivery by email; and
 - (vii) Form BB Notice to the Occupier dated 29 September 2023.
- 6 The Tribunal explained the purpose of the CMD and proceeded to hear submissions from Miss Masters on the application. The following is a summary of the key elements of the submissions and does not constitute a verbatim account.
- 7 Miss Masters explained that the Applicant sought an eviction order. They required to sell the property with vacant possession in order to meet their statutory duties and obtain the best sale price. She referred to the various notices that the Applicant had sent to the Respondent which were included within the application paperwork. The Respondent had been given ample time to vacate the property, having received the initial Form BB back in September 2023. Miss Masters confirmed that sheriff officers had attended the property in October 2024 after the notice period expired. They spoke with the Respondent. The Respondent advised them that she was attempting to obtain council housing, however the council had advised the Respondent that they would be unlikely to assist her in the absence of an eviction order. Miss Masters had little information regarding the Respondent's circumstances. The Respondent had mentioned a family, but the Applicant had no further information regarding the makeup of the household. The Respondent had previously mentioned that she had resided in the property for 17 years. Miss Masters had sought evidence of this from the Respondent but she had failed to provide anything further.

- 8 The Tribunal adjourned the CMD, at which point Miss Masters left the call, before resuming the proceedings and confirming the outcome.

Findings in fact

- 9 The property is owned by Lloyd Scott. On or around 18 January 2008 Lloyd Scott granted a standard security over the property in favour of the Applicant.
- 10 Lloyd Scott is the landlord, and the Respondent is the tenant, in terms of a private residential tenancy agreement in respect of the property which commenced on 27 October 2022.
- 11 Lloyd Scott subsequently defaulted on his mortgage payments. On 29 September 2023 the Applicant sent the Respondent a Form BB – Notice to the Occupier, advising her that a calling up notice had been served upon Lloyd Scott.
- 12 On 14 March 2024 the Applicant obtained a decree from Dundee Sheriff Court against Lloyd Scott. Said decree entitles the Applicant to enter into possession of and sell the property.
- 13 On 30 July 2024 the Applicant delivered a notice to leave to the Respondent by sheriff officers. The notice to leave included ground 2 and stated an application to the Tribunal would not be made any earlier than 23 October 2024.
- 14 On 12 November 2024 the Applicant emailed a notice under section 11 of the Homelessness etc (Scotland) Act 2003 to Dundee City Council.
- 15 The Applicant requires to sell the property. The Applicant requires the Respondent to leave the property for the purpose of disposing of it with vacant possession. The Applicant has a legal duty to achieve best value for the owners. A sale with vacant possession will ensure the maximum possible sale price.
- 16 The Respondent wishes to obtain alternative accommodation with the council. The council has advised the Respondent that they are unlikely to assist her until the Tribunal makes an eviction order.

Reasons for decision

- 17 The Tribunal was satisfied it had sufficient information before it to make relevant findings in fact and reach a decision on the application having regard to the application paperwork and the submissions heard at the CMD. In terms of Rule 17(4) and Rule 18(1) of the Rules the Tribunal determined that it could make a decision at the CMD as there were no issues to be resolved that would require a hearing and the Tribunal was satisfied that to make a decision would not be contrary to the interests of the parties. The Tribunal had given the Respondent an opportunity to attend the CMD, and to make written representations, but she had chosen to do neither.

- 18 Based on the application paperwork the Tribunal was satisfied that the tenancy between Lloyd Scott and the Respondent was a private residential tenancy, and that the Applicant had given the Respondent a notice to leave that complied with the provisions of the 2016 Act. The Tribunal was also satisfied that the Applicant had given the local authority notice under section 11 of the Homelessness etc (Scotland) Act 2003 of their intention to recover possession of the property. The Tribunal therefore considered whether ground 2 of schedule 3 of the 2016 Act had been met in this case.
- 19 The Tribunal considered the wording of ground 2:-
- “(1)It is an eviction ground that a lender intends to sell the let property.*
- (2)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*
- (a)the let property is subject to a heritable security,*
- (b)the creditor under that security is entitled to sell the property,*
- (c)the creditor requires the tenant to leave the property for the purpose of disposing of it with vacant possession, and*
- (d)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”*
- 20 The Tribunal accepted based on the evidence produced by the Applicant that they were the holders of a standard security over the property and that they held a sheriff court decree entitling them to sell the property. The Tribunal further accepted that they had a duty to achieve best value in any sale and would be unable to do so in the absence of vacant possession. The Tribunal therefore went on to consider whether it was reasonable to make an eviction order on account of the facts in this case, which required the Tribunal to identify those factors relevant to reasonableness and determine what weight to give to them.
- 21 The Tribunal gave significant weight to the fact that the Applicant was the holder of a standard security over the property and a court decree, which gave them rights over the property in terms of disposal. The Tribunal also accepted that a sale with a sitting tenant would attract a far lesser value than if the property was offered with vacant possession. The Applicant had a duty to ensure that the maximum sale price was achieved in order to protect the interests of the owner and the owner’s creditors, and could only do that if the property was marketed in the best possible condition.
- 22 The Respondent had not taken part in the proceedings. Accordingly, the Tribunal had no information regarding her personal circumstances, other than the fact that she had been the tenant of the property since October 2022, and it appeared she had applied for a council tenancy. The Tribunal did give weight to the fact that the granting of an eviction order would likely assist the Respondent in progressing her application for rehousing with the council, based on the comments that the council had made to her regarding her housing application. This provided some assurance to the Tribunal that the granting of an eviction

order would not leave the Respondent and her family homeless, as the council would have obligations towards them in such circumstances.

23 Accordingly, the Tribunal concluded that the balance weighed in favour of making an eviction order on account of the facts in this case and that ground 2 had been met.

24 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.

Ruth O'Hare

9 July 2025

Legal Member/Chair

Date