



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/25/0683

Re: 31 Friarton Road, Glasgow, G43 2PG ('the Property')

Parties:

Bank of Scotland PLC ('the Applicant')

Chloe Imrie, Aberdeen Considine, Solicitors, Glasgow, G2 6DB ('The Applicant's Representatives')

Nichole Linning residing at 31 Friarton Road, Glasgow, G43 2PG ('the Respondent')

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

Tribunal Members: Jacqui Taylor (Legal Member) Melanie Booth (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 18th December 2024. The application states that the ground for eviction was as follows:

'Ground 2: The Let Property is to be sold by the mortgage lender. The mortgage lender obtained decree for repossession against the Landlord dated 8th February 2024.'

1.3 Documents lodged with the Tribunal were:-

- Form BB dated 23rd August 2023 addressed to the occupier of 31 Friarton Road, Glasgow.
- Extract Decree issued by Glasgow Sheriff Court dated 8th February 2024.
- The undated Private Residential Tenancy Agreement between Callum Watt and the Respondent. The commencement dated was 28th January 2022.
- Notice to Leave dated 19th June 2024 advising the Tenant that an application will not be submitted to the Tribunal for an eviction before 20th September 2024 and the eviction ground is that Decree has been granted in favour of Bank of Scotland plc on 8th February 2024 entitling them to recover possession of the Property.
- Certificate of Service dated 27th June 2024 by Grant Lumsden, Sheriff Officer confirming the Notice to Leave was served on the Respondent on 27th June 2024.
- Email to Glasgow City Council dated 9th June 2025 attaching the Section 11 Notice.
- Section 11 Notice addressed to Glasgow City Council.

2. By Notice of Acceptance by Alan Strain, Convener of the Tribunal, dated 15th April 2024, he intimated that he had decided to refer the application (which application paperwork comprises documents received between 18th February 2025 and 24th March 2025) to a Tribunal.

3. Case Management Discussion

This case called for a conference call Case Management Discussion (CMD) at 14.00 on 5th September 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 Andrew Richardson, Sheriff Officer, on 28th July 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 Ms Imrie:

4.1.1 The Form BB was served on the Respondent in August 2023. She has been aware that the Applicant would be applying for an eviction order for over two years.

4.1.2 The Notice to Leave stated that proceedings would not be raised before 20th September 2024 which was nearly a year ago.

4.1.3 The Respondent has had ample time to arrange alternative accommodation.

4.1.4 The Respondent has not provided any representations and she is not aware of any reason why the eviction should not be granted. She is not aware of the Respondent having any health concerns and as far as she is aware no one else lives in the Property.

4.1.5 Decree for repossession was granted in February 2024. The Applicant is under a duty to obtain the best price for the Property and this will only be secured with vacant possession.

4.1.6 She asked the Tribunal to grant the application and issue the eviction order.

5.Requirements of Section 109 of the Procedure Rules.

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

(i) the name and address of the Applicant.

(ii) the name and address of the Applicants' representative.

(iii) the name and address of the Tenant.

(iv) the ground of eviction. The ground stated in the application is that the Let Property is to be sold by the mortgage lender. The mortgage lender obtained decree for repossession against the Landlord dated 8th February 2024

The Tribunal accepted that this is Ground 2 of Schedule 3 of the 2016 Act.

(b) The Tribunal confirmed 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 Form BB dated 23rd August 2023 and the extract decree issued by Glasgow Sheriff Court dated 8th February 2024 had been produced.

(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 19th June 2024 and advised the Tenant that an application would not be submitted to the Tribunal for an eviction order before 20th September 2024.

The Tenant had resided in the Property for more than six months and the application for eviction was based on ground 2 of Schedule 3 of the 2016 Act and therefore eighty four days notice was required. The Notice to Leave was served on the Respondent by sheriff officer on 27th June 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 confirmed that a copy of the required notice had been provided.

(iv) a copy of form BB given to the occupier of the Property when the security was called up.

A copy of form BB dated 23rd August 2023 has 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.

6. Decision

6.1 The Tribunal found that the Applicant had met the requirements of Ground 2 of Schedule 3 The Private Housing Tenancies (Scotland) Act 2016 for the following reasons:

6.1.1 The Tribunal had a copy of the title to the Property GLA135027 and established that the title is subject to a heritable security in favour of the Applicant.

6.1.2 The Applicant had obtained decree from Glasgow Sheriff Court (court ref GLW-B1921-23) which granted warrant to sell the Property.

6.1.3 The Applicant requires the Tenant to leave the Property to enable them to sell the Property with vacant possession to enable them to secure the best price.

6.2 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 Applicants are required to obtain the best price for the Property and require vacant possession to do so, the Respondent has known that the Applicant intends to sell the Property for two years and has had time to arrange alternative accommodation and she has not lodged any written representations opposing the eviction application.

6.3 The Tribunal granted the eviction.

7. 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

Legal Member 5th September 2025