



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/25/1327

Re: Property at 12 Thornhill Drive, Kirkcaldy, KY2 5BQ (“the Property”)

Parties:

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

Virgil Petrovici, 12 Thornhill Drive, Kirkcaldy, KY2 5BQ (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it would grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 2 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. An application had been received under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.
2. The application contained:
 - a. Notice to Leave and evidence of service
 - b. Tenancy agreement

- c. Section 11 notice with evidence of service
 - d. Copy Form BB to the occupier dated 14 February 2024
 - e. Decree of Repossession dated 30 July 2024
3. This case called for a case management discussion on 21 October 2025. In attendance was the Applicant's representative, Ms Macdonald, from Aberdeen Considine. Sheriff officers had served the application on the Respondent on 5 September 2025. As the Respondent had had notice of the case management discussion, the tribunal therefore proceeded in his absence.

Discussion

4. The Applicant's agent advised that the Applicant was seeking an order for recovery of possession of the property under ground 2 (the let property is to be sold by the lender). The mortgage lender had obtained a decree for repossession against the mortgage customer, the landlord, dated 30 July 2024.
5. The Respondent had received the notice to leave, which had expired on 21 February 2025; the Respondent had had ample notice of the order being sought by the Applicant. The Applicant had recent contact with the mortgage holder, and he had advised that the tenant had left the property; the mortgage holder wants the house to be repossessed. The Applicant had sent sheriff officers out on three occasions to try and ascertain if the Respondent had left; it appeared there was someone still in the house. She had limited information about the Respondent's personal circumstances. She understood that his partner may reside there with him, but she had no other information. She advised that the Applicant's agents had written and emailed the Respondent on several occasions to offer advice about these proceedings and asked him to contact agents, however, there had been no contact whatsoever. She was not aware if there were any dependents in the property. She was not aware of the Respondent's financial situation. She sought an order for repossession.

Findings in Fact

6. The Tribunal found the following facts established: -
7. There was a private residential tenancy agreement in place.
8. The tenancy had commenced on 1 March 2024.
9. The landlord was Amir Attiq.
10. The tenant was Virgil Petrovici.
11. The property was 12 Thornhill Drive, Kirkcaldy.
12. There was a notice to leave dated 26 November 2024, which advised that proceedings would not be raised until 21 February 2025; it confirmed that the eviction ground being used was Ground 2 - the let property is to be sold by the mortgage lender; there was evidence of service of the notice.
13. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service of this notice.
14. The let property is subject to a heritable security.
15. The Applicant is a creditor under a heritable security secured against the Property.
16. The mortgage was created and registered on 23 September 2008.
17. The Applicant has obtained a Decree under the Conveyancing and Feudal Reform (Scotland) Act 1970 from Kirkcaldy Sheriff Court on 30 July 2024, and extracted on 28 August 2024, and has the right to sell the property and to enter into possession of it.
18. A Form BB notice to the occupier had been sent to the occupier on 14 February 2024.

Reasons for Decision

19. Section 51 of the 2016 Act provides the Tribunal with the power to grant an order for eviction for a tenancy if it finds that one of the grounds in Schedule 3 of the Act applies.
20. The ground on which the Applicant seeks eviction is ground 2, that:-

2 Property to be sold by lender

(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.

21. The tribunal was satisfied that the terms of ground 2 had been met namely, that the property was subject to a heritable security; that the Applicant is entitled to sell the property by virtue of the extract decree issued at Kirkcaldy Sheriff Court dated 30 July 2024; the Applicant requires the tenant to leave the property for the purpose of disposing of it with vacant possession.

22. The tribunal was satisfied that a Notice to Leave had been served on the Respondent, which specified which ground in accordance with the requirements of the Act. There has been no contact by the Respondent with the Applicant despite a number of attempts having been made by the Applicant to engage with the Respondent. The Respondent did not attend the case management discussion.

23. The tribunal was satisfied that in all the circumstances, it was reasonable to grant the order; the Respondent had been aware of the lender wanting to sell the property and did not appear to oppose the order being granted.

Decision

24. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the tenancy under ground 2 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 1988.

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.

Melanie Barbour

Legal Member/Chair:

Date: 21st October 2025