

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/25/1983**

**Re: Property at 1 Adamson Avenue, Kirkcaldy, KY2 5EH (“the Property”)**

**Parties:**

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

**Ciprian Emanuel Gal and Elisabeta Elena Costea, 1 Adamson Avenue, Kirkcaldy, KY2 5EH (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member) and Ann Moore (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 1 Adamson Avenue, Kirkcaldy, KY2 5EH under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondents. The order will include a power to Officers of Court to eject the Respondents and family, servants, dependants, employees, and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.**

**Background**

- 1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The Applicant’s case is based on Ground 2 (Property to be sold by Lender) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).**

2. The application was accompanied by a copy Private Residential Tenancy Agreement between Amir Attiq and the Respondents dated 1 June 2024, a Notice to Leave dated 17 January 2025 together with Sheriff Officers Execution of Service dated 20 January 2025, an extract decree of repossession against Amir Attiq from Kirkcaldy Sheriff Court dated 30 July 2024 and extracted on 28 August 2024, a Form BB dated 1 January 2024 and Notices in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with emails to Fife Council dated 26 April 2024 and 8 May 2025.
3. On 13 October 2025 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 21 November 2025. This paperwork was served on the Respondents by William Wywalec, Sheriff Officer, Kirkcaldy on 15 October 2025 and the Executions of Service were received by the Tribunal administration.

### **Case Management Discussion**

4. The Tribunal proceeded with the CMD on 21 November 2025 by way of teleconference. The Applicant was represented by Ms MacDonald, from Aberdeen Considine solicitors. Both Respondents appeared. Mr Gal confirmed he would speak for him and his wife Ms Costea.
5. The Tribunal had before it the copy Private Residential Tenancy Agreement between Amir Attiq and the Respondents dated 1 June 2024, a Notice to Leave dated 17 January 2025 together with Sheriff Officers Execution of Service dated 20 January 2025, an extract decree of repossession against Amir Attiq from Kirkcaldy Sheriff Court dated 30 July 2024 and extracted on 28 August 2024, a Form BB dated 1 January 2024 and Notices in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with emails to Fife Council dated 26 April 2024 and 8 May 2025. The Tribunal noted the terms of these documents.
6. The Tribunal confirmed that it had read the application papers. In terms of the application the Tribunal noted that the Applicant was the heritable creditor of the Property and that the Respondents had entered into a Private Residential Tenancy with their landlord, Amir Attiq on 1 June 2024.
7. The Tribunal had further noted that the Applicant had obtained decree for possession of the Property against Amir Attiq at Kirkcaldy Sheriff Court on 30 July 2024 and that the Applicant’s solicitors had served Notice to Leave on the Respondents on 20 January 2025 under Ground 2 (Property to be sold by Lender) of Schedule 3 of the 2016 Act.

8. Ms MacDonald's motion was for an order for repossession to be granted. She submitted that the Applicant required vacant possession in order to enforce the Decree obtained on 30 July 2024 against the Respondents' landlord, Amir Attiq. She submitted the Respondents had had ample time to move out of the Property, the Notice to Leave expiring on 15 April 2025. The Applicant's solicitor had attempted to call Mr Gal and had left voicemails. They had issued letters to the Respondents. Sheriff Officers had attended at the Property in September 2024. Mr Gal had confirmed they lived in the Property. They had sent Sheriff Officers to the Property again at the expiry of the Notice to Leave. The Sheriff Officers had again attended on 10 November 2025. The Respondents advised that they did not intend to leave the Property as Mr Attiq had told them matters had been resolved with the Applicant.
9. Mr Gal explained that when he received the various letters from the Bank he spoke to Mr Attiq who advised him that everything had been sorted out with the Bank and not to worry. He and his wife were both currently unemployed. There were no other people living in the Property. He confirmed they had not looked for other accommodation as he was told by Mr Attiq that everything was okay. They had not spoken to Fife Council about their circumstances.
10. Ms MacDonald submitted she was sympathetic towards the Respondents and that they had received contradictory information from Mr Attiq. In the circumstances the Applicant was agreeable to suspending the order for eviction by three months to allow the Respondents to present as homeless with Fife Council.
11. In response to questioning by the Tribunal Mr Gal admitted he had received all the paperwork and had noticed that it was being sent on behalf of the Bank, but when he discussed it with Mr Attiq, Mr Attiq told him not to worry. He trusted Mr Attiq as they had previously rented another property from him. He confirmed they had always had private landlords.

### **Reasons for Decision**

12. The Tribunal considered the issues set out in the application together with the documents lodged in support and Ms MacDonald's and Mr Gal's submissions. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 2, namely the Property is to be sold by the Lender. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict.
13. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.

14. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicant's intention to sell the Property at Part 2 of the Notice in terms of Ground 2 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2) in this case 15 April 2025. The Notice to Leave was served on the Respondents by Sheriff Officers on 20 January 2025. In terms of Section 54 the notice period of the Notice to Leave is 84 days the Respondents having lived in the Property for more than 6 months. The Notice to Leave stated the earliest date the Applicant could apply to the Tribunal was 15 April 2025. In the circumstances the Tribunal is satisfied the Respondents have been given sufficient notice. Accordingly, the Notice to Leave complies with Section 62.
15. It appeared to the Tribunal that the Respondents had accepted Mr Attiq their landlord's word that the issue with the Applicant had been sorted. That was unfortunately not the case. Somewhat naively, they had not thought to take any independent advice. They had trusted Mr Attiq. Nevertheless the Tribunal was satisfied on the basis of the documents lodged, together with Ms MacDonald's submissions that the factual basis of the application had been established in relation to Ground 2 and was satisfied the Applicant intended to sell the Property as soon as they regained possession. The Tribunal accepted, based on the documents provided by the Applicant, that a standard security had been granted in their favour by Amir Attiq over the Property and that the Applicant had a sheriff court decree against Mr Attiq following the calling up of the standard security that entitled them to recover possession and sell the Property.
16. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicant's intention was to sell the Property when they obtained possession and that they required vacant possession to do so. The Respondents had received the Notice to leave on 20 January 2025 advising them they had to leave the Property by 15 April 2025. They had not taken independent advice or presented as homeless to Fife Council. On balance the Tribunal considered the balance of reasonableness in this case weighted towards the Applicant, particularly when the Applicant was prepared to delay the order for a period of three months to allow the Respondents to take independent advice and present as homeless with Fife Council. The Tribunal find it would be reasonable to grant the order.
17. In the circumstances the Tribunal considered that in terms of Ground 2 of Schedule 3 of the 2016 Act it was reasonable to grant an eviction order, in terms of Section 51 of the 2016 Act.
18. The Tribunal granted an order for repossession suspended by three months. 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.



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Legal Member

22 November 2025

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Date