



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 (the 2016 Act) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)

Chamber Ref: FTS/HPC/EV/25/3090

Re: Property at 12 Glen Isla Road, Kirkcaldy, Fife, KY2 6UN (the Property)

Parties:

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

Aberdein Considine, Solicitors, 18 Waterloo Street, Glasgow, Scotland, G2 6DB (the Applicant's Representative)

Mr Sahanaz Kuosar, 12 Glen Isla Road, Kirkcaldy, Fife, KY2 (the Respondent)

Tribunal Members:

Ms. Susanne L. M. Tanner K.C. (Legal Member)

Mrs Mary Lyden (Ordinary Member)

Decision (in the absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal) is satisfied that Ground 2 in Schedule 3 to the 2016 Act is established by the Applicant, namely a lender intends to sell the let Property in that: (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) it is reasonable to issue an eviction order on account of those facts; and the tribunal made an order for eviction in terms of section 51 of the 2016 Act.

The decision of the tribunal is unanimous.

Reasons

Procedural Background

1. The Applicant's Representative made an application to the tribunal on 17 July 2025 in terms of section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules).
2. The Applicant seeks an order for eviction of the Respondent from the Property under Ground 2 of Schedule 3 to the 2016 Act, in summary that a lender intends to sell the let Property; following the lender obtaining a decree for repossession against the mortgage customer (landlord) dated 30 July 2024.
3. The Applicant's Representative lodged with the Application:
 - 3.1. Tenancy agreement;
 - 3.2. Extract decree dated 30 July 2024;
 - 3.3. Notice to Leave;
 - 3.4. Proof of Service of Notice to Leave;
 - 3.5. Section 11 Notice;
 - 3.6. Proof of service; and
 - 3.7. Form BB to occupier.
4. The tribunal's administration obtained the Title Sheet for the Property on 18 July 2025 which shows that the Applicant is heritable creditor of the Property. The tribunal's administration checked the Scottish Landlord Register, which showed that the registered landlord is Amir Attiq.
5. The Application was accepted for determination by a tribunal. Both parties were notified by letters dated 20 November 2025 of the date, time and place of Case Management Discussion (CMD) in relation to the Application on 19 January 2026 at 1000h by teleconference. The Respondent was invited to make written representations in response to the Application by 11 December 2025. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order. The parties were also advised that if they do not attend the CMD this will not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Application paperwork and notification was served on the Respondent by Sheriff Officers on 21 November 2025.

6. The Respondent did not lodge any opposition or submit any written representations in response to the Application.

Case Management Discussion (CMD: 19 January 2026, at 1000h, by Teleconference

7. Ms Imrie, Solicitor from the Applicant's Representative attended on behalf of the Applicant.
8. The Respondent, Mr Kuosar, did not attend.
9. The tribunal was satisfied on the basis of the certificate of service by Sheriff Officers that he received the Application paperwork and notification of the CMD on 21 November 2025. The tribunal decided to proceed in his absence on the basis of the information before it and representations of the Applicant's Representative in terms of Rule 29 of the 2017 Rules.
10. Ms Imrie moved to amend the Applicant's title in the Application to Mr (in place of Ms). She stated that the information they hold suggests that the Respondent is a male.
11. Ms Imrie stated that her firm has instructed occupancy reports but there has been no contact from the Respondent in response to visits from Sheriff Officers. They served notice to leave on 20 January 2025, at which time it was reported that there was someone in the property on that date but they did not answer the door. On 23 April 2025, Sheriff Officers attended and there was no response in the Property but a neighbour confirmed residence of the Respondent and said that the Respondent works away two months at a time. On 8 January 2026, Sheriff Officers attended again and a male within the Property answered the door. He spoke poor English and said that the Respondent was sleeping. Ms Imrie stated that the Applicant has no idea who that might have been and stated that the tenancy agreement is the Respondent's name only.
12. Ms Imrie stated that the Applicant (the lender) is seeking the eviction order to be granted. The Applicant's position that all the required procedural steps have been complied with.
13. She stated that decree was granted on 30 July 2024. Notice to Leave was served on the Respondent on 20 January 2025 on the basis of the lender's intention to sell the property on the market with vacant possession. The Section 11 notice was sent to the council on 17 July 2025 when the application was raised. The tenant has been aware of repossession proceedings since at least 7 February 2024 when the form BB was served on him which is almost two years. She submitted that the

respondent has had ample time to have secured alternative accommodation. She stated that there has been no contact from the Respondent and no opposition. She stated that the Applicant requires vacant possession to sell the Property for the best possible price.

14. Ms Imrie also stated that the landlord contact their firm on 13 November 2024 and said that the tenant has not been paying their rent. That is the only knowledge that the Applicant has about rent arrears as the lender is a third party to the tenancy. The landlord did not say from what date or what the arrears had accrued or how much was outstanding. They have not had any contact since that date.
15. The Applicant has no information about the Respondent's personal or family circumstances other than what the Sheriff Officers found out from the neighbour. They were told that the tenant works away and his wife stays with her sister when he is away. The wife is not named on the tenancy agreement. It is in the sole name of the Respondent. Ms Imrie does not know which age group the tenant is in, or whether there are any health issues. She stated that there has been no contact from the Respondent to advise of age related, or health issues. She has no knowledge of any children living there. She does not have any information about the size of property.
16. In relation to the tenancy documentation, Ms Imrie stated that the Applicant was provided with the tenancy agreement from the landlord. They issued a letter on 30 October 2024 to confirm most up to date version of tenancy agreement and there was no response. In relation to the document which has been lodged, which bears to be a Short Assured Tenancy agreement, she submitted that although the lease appears to be a short assured tenancy template, the start date is after December 2017. All tenancy agreements entered into after that date fall under the 2016 Act and would be considered a PRT. It appears that the landlord has used an old form of tenancy agreement. She submitted that the PRT does not have to be in the correct format to be considered a valid PRT.

17. The tribunal makes the following findings-in-fact:

- 17.1. Amir Attiz, 34 Meikel Loan, Kirkcaldy (the Landlord), has been the registered proprietor of the Property since 23 October 2008.
- 17.2. The Landlord granted a security in favour of the Applicant on 23 October 2008.
- 17.3. The Applicant is the heritable creditor of the Property.
- 17.4. The Landlord entered into a private residential tenancy with the Respondent with a start date of 1 August 2022.

- 17.5. On 7 February 2024 the Applicant served a calling up notice on the Respondent as occupier of the Property.
- 17.6. The Applicant obtained a Sheriff Court decree dated 30 July 2024 entitling it to sell the let Property and to enter into possession of the subjects.
- 17.7. On 20 January 2025, the Applicant's Representative issued a Notice to Leave to the Respondent based on Ground 2 of Schedule 3 of the 2016 Act.
- 17.8. More than 84 days' notice was provided to the Respondent.
- 17.9. The Applicant requires vacant possession of the Property to enforce the decree in their favour entitling them to enter into possession and sell the let Property.
- 17.10. The Respondent continues to reside in the Property.

Discussion

18. The application for an order for eviction was not opposed. The Respondent has not engaged with the tribunal proceedings. The tribunal was satisfied that the Respondent is aware of the application for eviction.
19. The tribunal was satisfied on the basis of the findings in fact that Ground 2 in Schedule 3 of the 2016 Act is established.
20. The tribunal was satisfied that in all the circumstances, it was reasonable to make an order for eviction.
21. The tribunal therefore made an order for eviction in terms of Section 51 of the 2016 Act.

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.

Susanne Tanner K.C.

19 January 2026

Ms. Susanne L. M. Tanner Q.C.
Legal Member/Chair