

Housing and Property Chamber
First-tier Tribunal for Scotland



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/25/2592

Re: Property at 16 Helmsdale Avenue, Dundee, DD3 0HH (“the Property”)

Parties:

Topaz Finance Limited t/a Hyalite Mortgages, a company registered under the Companies Acts and having its registered office at The Pavilions, Bridgwater Road, Bristol, BS13 8AE (“the Applicants”)

Ms Emma Louise Couper (otherwise Miss Emma Short), 16 Helmsdale Avenue, Dundee, DD3 0HH (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application dated 16 June 2025, the Applicants sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Ground relied on was Ground 2 of Schedule 3 to the Act, namely that a lender intends to sell the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between Taylor Housing (1) and the Respondent, commencing on 1 July 2022, a Notice to Leave dated 19 February 2025 advising the Respondent that an application to the Tribunal under Ground 2 would not be made before 21 May 2025, and an Extract of a Decree of 19 December 2024 from Dundee Sheriff Court against Mark Charles Taylor, granting warrant to the Applicants to enter into possession of the Property, subject to and without prejudice to the rights of the tenant (the Respondent). The Applicants also provided copies of a Notice of

Calling-up of a Standard Security by Mark Charles Taylor, the Notice being dated 18 June 2024 and evidence of registration in the Land Register on 4 April 2008 of a Standard Security by Mark Charles Taylor in favour of Mortgage Express and of Assignment of that Standard Security in favour of the Applicants, the assignment being registered on 8 November 2023.

3. The Applicants stated that the Standard Security related to a mortgage loan advanced on 26 March 2008. The term of the loan expired on 1 April 2023, but it has not been repaid. A decree authorising the Applicants to enter into possession had been granted at Dundee Sheriff Court on 19 December 2024, but the debt remains unpaid. The Applicants are under an obligation to obtain the best possible price from a sale and consider that the best price will be achieved if the Property is sold with vacant possession before its condition deteriorates. In all the circumstances, it would, therefore, be reasonable to grant the application for an Eviction Order.
4. On 29 October 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 19 November 2025. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 18 December 2025. The Applicant was represented by Miss Sinead Sandham of Shoosmiths, solicitors, Edinburgh. The Respondent, who advised that she wished to be referred to by her maiden name, Miss Short, was also present.
6. Miss Short told the Tribunal that the Property has three bedrooms. She lives there with her partner, her parents, aged 70 and 69, and her brother, who is 48. She and her brother have lived in the Property since she first took on the tenancy on 6 January 2012. She had understood from discussions with the letting agency earlier in the year that she would be given an opportunity to buy the Property and she and her partner had obtained initial approval for a mortgage. As a result, she had not investigated whether other ground floor flats had become available to let. Due to her mother's health, the family require a ground floor flat and the Respondent said that she has installed a new kitchen and a bathroom with a walk-in shower, as she had assumed she and her partner would be allowed to buy the Property. She had had no contact with her landlord, but knew where to find him and, if the enforcement date of any Eviction Order gave her enough time, she and her partner would try to contact him in the hope of coming to an agreement with him that would be acceptable to the Applicants.
7. The Applicants' representative told the Tribunal that the Applicants' position remains unchanged and that they are seeking an Eviction Order in order to be able to sell the Property with vacant possession, but that they would not be looking to enforce the Order immediately, given the situation as outlined by Miss Short. She sympathised with Miss Short's position, but the debt owed by the landlord to the Applicants had now risen to £92,000, so they could not reasonably be expected to

wait for a prolonged period, particularly as the landlord had not been in touch with the Applicants for many months.

8. The Tribunal told Miss Short that any arrangement whereby the landlord might ask the Applicants to agree to sell the Property to the Respondent was a private matter with which the Tribunal could have no involvement and that, ultimately, it would be for the Applicants to decide whether any arrangement which avoided their enforcing an Eviction Order by selling to the Respondent was acceptable to them. The Tribunal would, however, bear this possibility in mind in determining the earliest date on which any Order it made could be enforced.

Reasons for Decision

9. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
10. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.
11. Ground 4 of Schedule 3 to the 2016 Act provides that it is an eviction ground that a lender intends to sell the property and that the Tribunal may find that Ground 2 applies if the let property is subject to a heritable security, the creditor under that security is entitled to sell the Property and the creditor requires the tenant to leave the property for the purpose of disposing of it with vacant possession, and the Tribunal considers it reasonable on account of those facts to issue an Eviction Order.
12. The Tribunal was satisfied from the evidence provided that the Applicants intend to sell, that, in terms of a heritable security and court decree they are entitled to sell it and that they require the Respondent to leave the Property in order to be able to dispose of it with vacant possession. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.
13. The Tribunal accepted the contention of the Applicants that, in terms of the Conveyancing and Feudal Reform (Scotland) Act 1974, they have a responsibility as heritable creditors in possession to obtain the best price they reasonably can on a sale of the Property and that, were they to do so with a sitting tenant, the market would be restricted to investors and the sale price would in all probability be prejudicially affected. The Tribunal also noted that the Respondent had taken steps to investigate whether she and her partner might be in a position financially to offer for the Property and that she understood that the onus would be on her to contact the landlord, either directly or through the letting agents, to see whether a proposal could be put together to be presented by him to the Applicants.

14. Having considered carefully all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order, but, as there is a possibility of some form of arrangement, acceptable to the Applicants, being agreed whereby the Respondent can purchase the Property at a price agreed with the landlord, the Tribunal decided that it would extend to 31 March 2026 the earliest date on which the Order can be enforced, if no such agreement can be reached in the meantime.

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.

George Clark

George Clark

18 December 2025

Legal Member/Chair

Date