



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/25/0327

Re: Property at 133 Gartcraig Road, Flat 1/2, Riddrie, Glasgow, G33 2SP (“the Property”)

Parties:

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

Mr Marcin Romaniuk, 133 Gartcraig Road, Flat 1/2, Riddrie, Glasgow, G33 2SP (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession should be granted in favour of the Applicant against the Respondent. The Tribunal delayed execution of the order until 20 March 2026.

Background

1. An application was received from the Applicant’s solicitor on 28 January 2025 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 2 (property to be sold by lender) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:
 - (i) Letter from the landlord, Mr Gurminder Singh dated 16 April 2023 confirming that the Respondent had been living in the property as a tenant since 3 February 2020.

- (ii) Copy form BB (notice to the occupier) under Schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 ("the 1970 Act") dated 18 March 2022 and signed by the Applicant's solicitor.
 - (iii) Extract decree for recovery of possession in favour of the Applicant in respect of the property by the Sheriff at Glasgow in terms of section 24 of the 1970 Act dated 16 November 2023.
 - (iv) Notice to Leave addressed to the Respondent dated 16 September 2024 citing ground 2, and stating the date before which proceedings could not be raised to be 12 December 2024, together with proof of service by sheriff officer on behalf of the Applicant on 18 September 2024.
 - (v) Copy notices by the Applicant to Glasgow City Council under section 11 of the Homelessness etc. (Scotland) Act 2003 relating to 1) service of a calling-up notice and 2) an application to the courts for a warrant to exercised remedies on default, dated 16 May and 9 August 2023 respectively
3. Following an information request from the Tribunal administration, further information was received from the Applicant's solicitor on 4 March 2025. This including a copy section 11 notice to Glasgow City Council in respect of the Respondent, together with covering email dated 4 March 2025.
 4. The application was accepted on 11 April 2025.
 5. An email was received from the Respondent on 1 September 2025, requesting a postponement of the case management discussion (CMD) scheduled for 23 September 2025, because he was currently resident in a mental health institution and would be unable to attend. Following a request from the Tribunal for documentary evidence of this, an email was received from the Respondent on 22 September 2025, attaching a photograph of a short document in Polish, which appeared to confirm that he was currently in a mental health institution in Poland.

The first case management discussion

6. The CMD was held by teleconference call on 23 September 2025. Miss Chloe Imrie of Aberdeen Considine Solicitors represented the Applicant. The Respondent was not present or represented on the teleconference call.
7. Miss Imrie confirmed that the Applicant wished to seek an eviction order, but that should the Tribunal wish to delay execution of the order in the circumstances, this would not be opposed.
8. She told the Tribunal that the Applicant had encountered various difficulties with regard to the property. There was no tenancy agreement other than the letter from

the landlord to the Respondent dated 16 April 2023, which was included in the case file. This was the only information which the Respondent had provided to the Applicant, other than a utility bill in his name.

9. The Applicant had served the Notice to Leave on the Respondent via sheriff officers. The sheriff officers had found that there were three other people living in the property, who said they all rented directly from the landlord. It appeared, however, that the landlord had rented out a room in the property to the Respondent as a 'lead tenant' with permission to sublet other rooms in the property on an Airbnb basis. The Respondent appeared to be responsible for paying the utility bills at the property.
10. The Applicant had issued letters and emails to the Respondent regarding the repossession, and had signposted him to various advice agencies. The Respondent had been angry and upset about the situation, which he felt had nothing to do with him personally.
11. Miss Imrie confirmed that the Applicant had no further information about the Respondent's personal circumstances. She noted that the Respondent did not appear to be resident in the property at present, and queried whether he may in fact now be resident in Poland.
12. The Tribunal noted that there was no indication in the correspondence received from the Respondent that he intended to oppose the application. He had said in his email of 1 September 2025: *"I will not be able to attend nor to take my belongings out of the flat when eviction will be executed"*.
13. The Tribunal did not consider that there was sufficient information before it to allow it to make a decision on whether it was reasonable to grant an eviction order in all the circumstances. It considered that on balance, and bearing in mind the overriding objective, it would be in the interests of justice to postpone the CMD in order to allow the Respondent to attend or be represented.
14. The Tribunal noted in the note of the first CMD that the Respondent may wish to seek further advice and representation. It also noted that in the event that the Respondent was still unable to attend the adjourned CMD, he could appoint a representative to attend on his behalf. Should he still be in Poland, it would also be possible for him to participate remotely in the teleconference call from that country.
15. The Tribunal issued a further direction to the parties on 23 September 2025 directing them to provide further information by 6 January 2026. The Applicant was required to provide various documentation, while the Respondent was asked to confirm whether: 1) the property was still his only or main residence and 2) whether

he required an interpreter for the adjourned CMD. Both parties were also invited to make further submissions regarding: 1) whether the ground for eviction had been met, and 2) whether it was reasonable to grant an eviction order in all the circumstances of the case.

Further submissions from the parties

16. Responses to the direction were received from Miss Imrie on behalf of the Applicant on 13 October and 16 December 2025.
17. An email was received from the Respondent on 2 October 2025. He enclosed an English translation of the doctor's certificate dated 22 September 2025 confirming that he had been resident in a mental health institution since 27 August 2025.
18. Another email was received from the Respondent on 20 November 2025, stating that he was still resident in the Polish mental health institution and would be there until 11 February 2026. A further email was received from him on 21 November 2025, confirming that he wished to seek a postponement of the postponed CMD which was scheduled for 20 January 2026.
19. Having considered the submission from the Respondent and bearing in mind the overriding objective, the Tribunal decided to refuse the postponement. The parties were notified of this on 16 December 2025.
20. No response to the direction or any further submissions were received from the Respondent in advance of the postponed CMD.

The postponed case management discussion

21. The postponed CMD was held by teleconference call on 20 January 2026. Miss Imrie again represented the Applicant.
22. The Respondent was not present or represented on the teleconference call. The Tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. He did not join the teleconference call, however, and no telephone calls, messages or emails had been received from him.
23. The Tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case management discussion had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondent.

Submissions on behalf of the Applicant

24. Miss Imrie asked the Tribunal to grant an eviction order. She submitted that it would be reasonable to do so in the circumstances. The form BB had been sent to the property in March 2022 and the Respondent had been served with a notice to leave in September 2024. He had therefore been aware that eviction proceedings would take place for several years and prior to his current health issues. He had had ample opportunity to seek advice, look for alternative accommodation and/or apply to the local authority for housing.
25. The Respondent had also been obstructive, having refused to provide information to the Applicant as requested. Aberdeen Considine had heard nothing from or on behalf of the Respondent directly since the previous CMD.
26. Regarding the three other occupiers who had been identified as living at the property, it was unclear as to whether they were still in occupation. The Applicant had made reasonable attempts to obtain their tenancy agreements or other information about their tenancy status, but they had refused to provide this.
27. The Applicant had had a duty under section 25 of the 1970 Act to statutory duty to advertise the property for sale and obtain the best possible price for it.
28. Miss Imrie confirmed that no further payments had been made to the Applicant by the landlord since the first CMD. There had been no contact from the landlord for some time.
29. With regard to reasonableness, Miss Imrie confirmed that the Applicant had no further information regarding the Respondent's circumstances. She observed that the Respondent had not provided any reasons why it would not be reasonable for the Tribunal to grant an eviction order.
30. The Tribunal noted that the Respondent appeared to be concerned about his possessions which may still be within the property. Miss Imrie said that the Applicant had not obtained access to the property, and was unable to confirm whether his possessions were still there.
31. She advised that if an eviction order were granted, letters would be sent to the property about two weeks before any eviction by sheriff officers was scheduled to take place. An email could also be sent to the Respondent to notify him of the situation, if necessary. When sheriff officers attend the property to carry out an eviction and change the locks, they take an inventory of items located within the property. They then provide contact details to allow the tenant to contact them and collect their belongings, which would be retained for a period of time.

Findings in fact

32. The Tribunal made the following findings in fact:

- There was a private residential tenancy in place between the landlord Gurminder Singh and the Respondent which commenced on 3 February 2020
- Mr Simpson granted a standard security over the property in favour of the Applicant which was registered against the title to the property on 11 October 2007.
- On or around 18 March 2022, the Applicant's solicitor sent a copy of a Calling Up Notice and a Form BB to "the Occupier" of the Property.
- On 16 November 2023, the Sheriff at Glasgow granted a decree for recovery of possession in favour of the Applicant in respect of the property further to expiry of the Calling Up Notice.
- The Notice to Leave was validly served on the Respondent by sheriff officer on behalf of the Applicant on 18 September 2024.
- An occupancy report provided by sheriff officers to the Applicant found that in addition to the Respondent, there were three other occupiers living in the property as at 1 September 2025.
- The Applicant is entitled to sell the property.
- The Applicant requires the tenant to leave the property in order to sell it with vacant possession.
- As at 16 December 2025, the outstanding mortgage arrears owed by the landlord in relation to the property totalled £33,836.48. As at the same date, the outstanding mortgage balance was £106,476.03. No payment has been made towards the mortgage account since September 2022.
- The Respondent has at the time of the continued CMD been resident in a mental health institution in Poland since 27 August 2025.

Reasons for decision

33. While the Tribunal was mindful of the Respondent's current circumstances, it noted that he had not explicitly opposed the application. It did not appear on the basis of the submissions which had been received from him, and in particular his email of 1 September 2025, that he wished to oppose the application. It had been suggested to him by both the Applicant's solicitor and the Tribunal that he may wish to seek advice about his situation.

34. The Tribunal took into account the overriding objective and noted that there was a balance to be struck between the requirement to ensure that the parties are on

an equal footing procedurally and are able to participate fully in the proceedings, and the need to avoid delay, so far as compatible with the proper consideration of the issues.

35. Having weighed up all of these considerations, the Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.
36. The Tribunal considered whether the legal requirements of Ground 2, as set out in Schedule 3 of the 2016 Act (as amended), had been met. Ground 2 states:

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.

37. The Tribunal was satisfied on the basis of the evidence before it that the requirements of Ground 2 had been established by the Applicant. The Respondent had not disputed that the requirements for Ground 2 have been met.

Reasonableness

38. The Tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.
39. The Tribunal noted that the Applicant, as the holder of the heritable security over the property, is entitled to sell the property. The Applicant requires the Respondent to leave the property so that it can be sold with vacant possession. The Applicant has a statutory duty to “advertise the sale [of the property] and to take all

reasonable steps to ensure that the price at which ... [the property is] sold is the best that can be reasonably obtained”.

40. The Tribunal noted that the Applicant’s solicitor has made numerous attempts to contact the Respondent, and had sent sheriff officers to the property on multiple occasions to ascertain whether he was still living there.
41. The Tribunal noted that little information was available about the Respondent’s circumstances. He appears to be around 32 years old and to be currently resident in Poland. It is unknown whether he intends to return to the UK following his discharge from hospital, or whether he has made enquiries about alternative accommodation. It is also unknown whether his belongings are still located within the property.
42. The Tribunal noted that while there may be other occupiers still living in the property, it could only consider the application before it, which related to the Respondent only.
43. It appeared to the Tribunal from the Respondent’s correspondence that he appeared to have been unclear about the situation he was in, and why he was involved in the tribunal proceedings. The Tribunal had endeavoured to explain the situation to him in its email of 16 December 2025. He also appeared to be concerned about his possessions.
44. The Tribunal was aware that the Respondent has been a tenant of the property for almost 6 years and is facing the loss of his home through no fault of his own. The Respondent had not however opposed the application.
45. Having carefully considered all of the evidence and all of the circumstances of the case as set out above, the Tribunal considered that on balance it was reasonable to grant an eviction order. It gave particular weight to the Applicant’s rights and duties as the heritable creditor of the property and to the lack of opposition from the Respondent, as well as the fact that he had been aware of the Applicant’s intention to repossess and then sell the property for a significant period of time.
46. Before deciding to grant the order, the Tribunal had sought Miss Imrie’s views on the possibility of delaying execution of the eviction order in terms of rule 16A of the 2017 rules, to give the Respondent more time to collect his possessions and/or find suitable alternative accommodation.
47. Miss Imrie said that she was instructed to ask for an eviction order without any delay in execution. It was her position that the Respondent has had ample opportunity to arrange for his belongings to be collected from the property.

48. Having considered her written representations and the Respondent's submission that he would be in hospital in Poland until 11 February 2026, the Tribunal considered that it would be reasonable in all the circumstances to delay execution of the order for one month until 20 March 2026.

Decision

49. The Tribunal granted an order in favour of the Applicant against the Respondent for recovery of possession of the property. The Tribunal delayed execution of the order until 20 March 2026.

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.

Sarah O'Neill

Legal Member/Chair

Date: 20 January 2026