



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/25/3071

Re: Property at 17 Broadstraik Avenue, Elrick, Westhill, AB32 6DA ("the Property")

Parties:

National Westminster Bank PLC, 250 Bishopsgate, London, EC2M 4AA ("the Applicant")

Miss Victoria Elizabeth Dossett, 17 Broadstraik Avenue, Elrick, Westhill, AB32 6DA ("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 16 July 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) Copy private residential tenancy between the Respondent and the landlord, Louise Young, which commenced on 10 January 2023.

- (ii) Copy form BB (notice to the occupier) under Schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 ("the 1970 Act") dated 22 March 2024 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 Aberdeen in terms of section 24 of the 1970 Act dated 21 November 2024.
- (iv) Notice to Leave addressed to the Respondent dated 7 April 2025 citing ground 2, and stating the date before which proceedings could not be raised to be 3 July 2025, together with proof of service by sheriff officer on behalf of the Applicant on 9 April 2025.
- (v) Copy notice under section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to Aberdeenshire Council, together with proof of sending by email on 16 July 2025.

3. The application was accepted on 5 August 2025.
4. Notice of the case management discussion (CMD) scheduled for 20 January 2026, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the Tribunal on 21 November 2025. The Respondent was invited to submit written representations by 11 December 2025.
5. An email was received from the Respondent on 15 January 2026, asking the Tribunal to give her 6 weeks' notice of the eviction. The email stated that the Respondent was not viewed as a priority by the council until she received the eviction notice. She is a carer for adults with disabilities, and therefore needs the council to rehouse her close to her work. She therefore asked for a longer eviction notice period to give the council more time to find her a suitable home.

The case management discussion

6. A CMD was held by teleconference call on 20 January 2026. Mrs Masters of Aberdeen Considine Solicitors represented the Applicant.
7. 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. She did not join the teleconference call, however, and no telephone calls, messages or emails had been received from her.
8. 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 was also clear from her email of 15 January that the Respondent was aware of the CMD. The Tribunal therefore proceeded with the CMD in the absence of the Respondent.

Submissions on behalf of the Applicant

9. Mrs Masters asked the Tribunal to grant an eviction order in favour of the Applicant. She said that a decree of repossession had been granted in favour of the Applicant on 21 November 2024. The Applicant had a statutory duty to advertise the property for sale and obtain the best possible price for it.
10. The Respondent had been given ample notice of the repossession process, having received the form BB on 22 March 2024. The Notice to Leave had expired in July 2025.
11. The Applicant had little information about the Respondent's circumstances. Mrs Masters had been in correspondence with the Respondent and last spoke to her on 29 December. She said that the information contained in the Respondent's email of 15 January 2026 was consistent with what the Respondent had told her. She did not believe that the Respondent had children and thought that she lived alone in the property.
12. Mrs Masters noted that the Applicant had asked for an extension to the standard timescale for an eviction order, to give her more time to find alternative accommodation. She said that were the Tribunal minded to grant an eviction order, she was instructed to seek this within the standard timeframe. She added, however, that the Applicant would not oppose such a delay in execution, should the Tribunal consider this to be appropriate.

Findings in fact

13. The Tribunal made the following findings in fact:
 - There was a private residential tenancy in place between the landlord, Ms Louise Young and the Respondent which commenced on 10 January 2023.
 - Ms Young granted a standard security over the property in favour of the Applicant which was registered against the title to the property on 3 October 2014.
 - On or around 22 March 2024, the Applicant issued a Calling Up Notice against Ms Young and sent a copy of the Notice and a Form BB to "the Occupier" of the Property.
 - On 21 November 2024, the Sheriff at Aberdeen 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 Applicant is entitled to sell the property.

- The Notice to Leave was validly served on the Respondent by sheriff officer on behalf of the Applicant on 9 April 2025.
- The Applicant requires the tenant to leave the property in order to sell it with vacant possession
- The Respondent did not oppose the application.

Reasons for decision

14. 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.
15. 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.

16. 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

17. 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.
18. 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 in order that it can be sold with vacant possession. The Applicant has a statutory duty under section 25 of the 1970 Act 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”.

19. The Tribunal noted that little information was available about the Respondent’s circumstances. She has been living in the property for three years. She has been aware that the property was being repossessed for almost two years. It has now been more than 9 months since the Notice to Leave was served on her.
20. It appeared from her email of 15 January 2025 that the Respondent did not wish to oppose the application, and simply sought more time in order to be rehoused by the Council.
21. 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. It also gave particular weight to the lack of opposition from the Respondent, and her apparent need for an eviction order to be granted so that she could be rehoused by the Council.
22. The Tribunal noted that it was slightly unclear from her email of 15 January whether the Respondent sought an extension of two further weeks in addition to the standard 30 day period i.e. six weeks in total or was looking for an additional six weeks over and above the usual 30 days.
23. On balance, having taken the parties’ submissions into account, the Tribunal considered that it would be reasonable in all the circumstances to delay execution of the order for a further month beyond the usual timescale until 20 March 2026.

Decision

24. 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

20 January 2026

Legal Member/Chair

Date