

**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/25/2811**

**Re: Property at 199C Main Street, Glasgow, G72 0EL (“the Property”)**

**Parties:**

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

**Mr Onyedikachi Aniago, 199C Main Street, Glasgow, G72 0EL (“the  
Respondent”)**

**Tribunal Members:**

**James Bauld (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the application for the order for possession should  
be granted**

**. Background**

1. By application dated 30 June 2025 the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”). On 23 July 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was set to take place on 22 January 2026 and appropriate intimation of that hearing was given to all parties.

## **The Case Management Discussion**

3. The Case Management Discussion (CMD) took place on 22 January 2026 via telephone case conference. The applicant was represented by their solicitor, Ms Macdonald, Aberdeen Considine, solicitors, Glasgow. The Respondent did not take part.
4. The tribunal noted that the applicant's solicitor was aware of the purpose of the CMD, the overriding objective of the tribunal and the powers available to the tribunal to determine matters.
5. The tribunal asked various questions of the applicant's solicitor with regard to the application.

## **Summary of initial discussions at CMD**

6. The tribunal noted that the eviction was sought under and in terms of ground 2 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016
7. That ground is currently in the following terms.

### ***2 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 subparagraph (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.***

8. The applicant is a creditor under a security and is entitled to sell the let property in terms of a decree issued by Hamilton sheriff Court on 1 March 2023 and extracted on 23 March 2023. The respondent was a tenant of a tenancy of the property which was a private residential tenancy under and in terms of the 2016 Act.
9. A Notice to Leave had been served on the respondent indicating that the applicant intended to seek an eviction order based on ground 2A.

10. The Applicant is entitled to sell the property.
11. The applicant's solicitor indicated that the applicant intends to sell the property. If the eviction order is granted, they will take steps to recover possession as the former owner has continued to create tendencies over the subjects despite the decree granted at Hamilton Sheriff Court. The applicant requires the tenant to leave the property for the purpose of disposing of it with vacant possession
12. Ms Macdonald explained that she has limited information relating to the respondent. She indicated that sheriff officers instructed by the applicant had attended at the property within the last week and reported that the property appears to be unoccupied.

### **Findings in fact**

13. The let property is subject to a heritable security granted by the owner in favour of the applicant.
14. The Applicant as the creditor under that security is entitled to sell the property, having obtained a decree from Hamilton Sheriff Court t dated 1 March 2023 and extracted on 23 March 2023.
15. The Respondent is a tenant of the let property under a private residential tenancy of the property which commenced on 6 June 2024.
16. On 31 March 2025 the applicant served upon the tenant a notice to leave as required by the Act. The notice became effective on 25 June 2025. The notice informed the tenant that the applicant as a lender wished to seek recovery of possession using the provisions of the Act.
17. The applicant is entitled to sell the property and intends to do so.
18. The applicant as the lender requires the tenant to leave the property for the purpose of disposing of it with vacant possession

### **Discussion and reasons for decision**

19. The ground for eviction under which this application was made is the ground contained in paragraph 2 of schedule 3 of the 2016 Act. The ground is that a lender intends to sell the let property. When the 2016 Act was originally passed, that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.

20. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
21. The only matter to be determined in this application is whether it is reasonable to grant the order.
22. The applicant intends to sell the property.
23. The order for possession was sought by the applicant on a ground specified in the 2016 Act and properly narrated in the notice served upon the tenant.
24. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the lender was entitled to seek recovery of possession based upon that ground.
25. The tribunal accepted the unchallenged evidence of the applicant's solicitor that the applicant intends to sell the property and requires vacant possession to do so.
26. The ground for eviction was accordingly established.
27. The Tribunal now has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, **Cumming v Danson**, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:

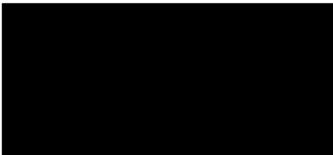
***“[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account”.***

28. In determining whether it is reasonable to grant the order, the tribunal is therefore now required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.

29. The tribunal finds that it is reasonable to grant the order.
30. The tribunal accepts that the applicant is entitled to sell the property and wishes to do so. There is no presumption, as a matter of law, in favour of giving primacy to the property rights of the lender over the occupancy rights of the tenant, or vice versa.
31. It appears that the respondent has vacated the property. He did not attend the CMD. He did not provide any written representations explaining why the order should not be granted.
32. The balance relating to the reasonableness of granting the order was weighed in favour of the applicant.
33. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that the final order should be made at the CMD.

### **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/Chair**

**22 January 2026**

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**Date**