



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/0696

Property at 251 Colliston Avenue, Glenrothes, KY7 4PP (“the Property”)

Parties:

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

Ms Anamaria Florica Pop, 251 Colliston Avenue, Glenrothes, KY7 4PP (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant. The Tribunal also ordered a delay in execution of the order until 30 June 2026 in terms of Rule 16A(d) of the Tribunal Rules of Procedure 2017.

Background

1. The Applicant seeks an eviction order in terms of Section 52 and ground 2 of schedule 3 of the 2016 Act. A copy of the application was served on the Respondent, and both parties were notified that a case management discussion (“CMD”) would take place on 12 August 2025 at 2pm by telephone conference call.
2. On 16 July 2025, the Respondent requested additional time to submit a written submission as she was in Romania with her sister, who was ill. She said that she would return to the UK by 30 July 2025. The Tribunal granted the request. On 29 July 2025, the Respondent sent a further email to the Tribunal which said that she had just returned from Italy but had to go back as her sister had been admitted to hospital for emergency surgery. The Respondent also stated that she has lived in the property for many years, always paid the rent on time and has two young children. She said that she needed a further 2 weeks to

obtain legal advice. As it was not clear whether the Respondent was seeking a postponement of the CMD, the Tribunal issued a response to the email stating that she could dial into the CMD from Italy, send written submissions or appoint a representative. The Respondent sent a further email with a medical certificate in relation to her sister which was not circulated to the Applicant as she failed to respond to a request for confirmation that it could be shared.

3. The CMD took place on 12 August 2025. The Applicant was represented by Ms Imrie. The Respondent did not participate and was not represented.
4. Ms Imrie confirmed that was seeking an eviction order. The Tribunal noted that, although the Respondent had not dialled into the conference call, she had sent three emails to the Tribunal which appeared to establish that the application was opposed. The basis of the opposition appeared to be that it would not be reasonable to grant the order.
5. In response to questions from the Tribunal, Ms Imrie said that she could not confirm whether the Respondent has lived in the property for several years. The tenancy agreement (dated 2024) was provided by the Respondent who told the Applicant's representative that she has two children of school age. However, they had no other information about her circumstances or the property. Ms Imrie also advised that the Applicant does not collect any rent from the Respondent and has not taken over as landlord. The property is still owned by the Landlord. She said that she was not in a position to confirm the level of mortgage arrears or whether the Landlord is making any payments.
6. The Tribunal determined that the application would proceed to an evidential hearing which would take place by telephone conference call unless either party requested a different format. A direction would also be issued for the provision of additional information and documents.
7. Following the CMD, the Respondent lodged a response to the direction. She submitted bank statements and transaction records which showed monthly payments to the landlord of £500 between January 2024 and July 2025. She stated that she has two children, aged 19 and 9. The nine-year-old attends a local primary school. She also said that she had nowhere to go and that she needed a "letter with at least 3-6 months for trying to found something else if I need to leave the property".
8. The parties were notified that a hearing would take place by telephone conference call on 4 February 2026 at 10am. Prior to the Hearing the Applicant lodged a bundle of authorities and a response to the direction. They confirmed the current level of the mortgage arrears and stated that no payments had been made by the landlord to the mortgage account since September 2023. The Applicant also submitted a desktop valuation for the property. The Respondent did not lodge any further submissions and documents.
9. The Hearing took place on 4 February 2026. The Applicant was again represented by Ms Imrie. The Respondent did not participate.

The Hearing

10. Ms Imrie told the Tribunal that she emailed the Respondent on 16 January 2026 and received a response. The Respondent confirmed that she is still living at the property and has nowhere else to go. Ms Imrie said that she had no further information about the Respondent and her circumstances. She does not know if the Respondent has been in contact with the Local Authority.
11. In response to questions from the Tribunal, Ms Imrie said that the mortgage arrears are substantial. The property with vacant possession has been valued at £100000. This is less than is currently owed by the landlord in terms of the sum borrowed and the arrears. The survey report indicates that if the property is to be sold with a sitting tenant, the value will be in the region of £75000. In response to questions about the Respondent's submissions, Ms Imrie said that Respondent's older child is an adult. In relation to the 3-6 month notice request, she said that the Applicant would prefer to have the order granted without a delay in enforcement. However, a delay of 3 to 6 months would not be strenuously opposed. She added that the Respondent has been aware of the Applicant's intention to sell the property for a significant period of time and has had time to look for alternative accommodation.
12. In response to questions from the Tribunal, Ms Imrie said that she did not know whether the Applicant had been aware that the landlord was letting out the property. However, that would not have affected the decision to seek eviction. The Applicant requires vacant possession of the property in order to get the best price when the property is sold. They are legally required to obtain the best price.

Findings in Fact

13. The Applicant is the heritable creditor of the property.
14. The Respondent is the tenant of the property.
15. The tenancy is a private residential tenancy.
16. The Applicant obtained a decree for recovery of possession of the property from Kirkcaldy Sheriff Court on 30 July 2024.
17. The Applicant served a Notice to leave on the Respondent on 22 October 2024.
18. The Respondent resides at the property with two children, aged 9 and 19. The younger child attends a local school.
19. The property is worth approximately £100000 with vacant possession. If the Applicant requires to sell the property with the Respondent in occupation, the value is likely to reduce to approximately £75000.

20. The Applicant intends to sell the property.
21. The landlord owes a significant sum to the Applicant. The sale proceeds are unlikely to cover the sum borrowed and the arrears.

Reasons for Decision

22. The application was submitted with a Notice to Leave dated 16 October 2024, together with Sheriff Officer certificate of service which establishes that it was served on the Respondent 22 October 2024. The Notice states that an application to the Tribunal is to be made on ground 2, the property is to be sold by the lender. The Notice states that the earliest date that an application can be made to the Tribunal is 15 January 2025.
23. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
24. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
25. Ground 2 of schedule 3 (as amended) states, "(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 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 purposes 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."
26. From the documents submitted and the information provided at the Hearing, the Tribunal is satisfied that the Applicant has established the first three parts of ground 2. The Applicant obtained a decree for recovery of possession of the property and is entitled to sell the let property by virtue of this decree.
27. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
 - (a) The Respondent did not participate in either the CMD or the Hearing. She lodged written submissions before both. These appeared to suggest that the application is opposed, because the Respondent has not been able to find alternative accommodation and has two children, one of whom is under the age of 18. She also provided evidence that she paid rent until July 2025.

- (b) Because the Respondent did not attend either the CMD or Hearing, the Tribunal was unable to obtain further information about her circumstances. The Tribunal has no information about her attempts to obtain alternative accommodation, employment status, health or disabilities or whether she has sought assistance from the Local Authority. The Applicant's agent was able to confirm that she is still living at the property and has recently stated that she has not found alternative accommodation.
- (c) The Applicant has provided evidence that the value of the property is likely to be about £25000 less if it is sold with a tenant in occupation. This is an estimate, as the surveyor has not been able to view the property.
- (d) Although the Respondent has provided evidence that she paid rent until July 2025, the payments were less than the rent charge specified in the current tenancy agreement and she has not provided any evidence of payments since July 2025.
- (e) Although the Respondent paid rent, the landlord did not pass on these payments to the Applicant. No payments have been made to the mortgage account since 2023 and the sum currently owed to the lender is more than the price likely to be obtained on the open market, even with vacant possession.
- (f) The Applicant is obliged by law to obtain the best price for the property. This can only be achieved with vacant possession.
- (g) It is not completely clear from her submissions, whether the Respondent still opposes the application, as her last email to the Tribunal was in August 2025.

28. Based on the limited information available about the Respondent, and the submissions from the Applicant, the Tribunal is satisfied that it would be reasonable to grant the order. The Applicant intends to sell the property, even if the order is not granted. They do not collect rent from the Respondent and do not intend to become the landlord. The proceeds of sale will be applied to the debt owed by the owner. These proceeds are unlikely to extinguish the whole debt, even if the property is sold with vacant possession. However, the proceeds of sale are likely to be significantly less if the eviction order is not granted.

29. The Tribunal concludes that the Applicants have complied with the requirements of the 2016 Act and that ground 2 has been established. For the reasons outlined in paragraphs 27 and 28, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

30. In her submission, the Respondent stated that she requires 3 to 6 months notice of the date of the eviction, if the order is granted. This was not strenuously opposed by the Applicant. Having regard to the information available about the Respondent's circumstances, particularly the fact that she has a primary school age child, the Tribunal is satisfied that a delay to 30 June 2026 would be appropriate, this being the end of the school year.

Decision

31. The Tribunal determines that an eviction order should be granted against the Respondent.

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.

Josephine Bonnar, Legal Member

17 February 2026