

# Housing and Property Chamber

## First-tier Tribunal for Scotland

---



**Decisions with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 and Section 18 of the Housing (Scotland) Act 1988.**

**Chamber Ref: FTS/HPC/EV/25/4680**

**Re: 95 Queen's Den, Aberdeen, AB15 8BN ("the Property")**

**Parties:**

**TSB Bank Plc, Henry Duncan House, 120 George Street, Edinburgh, EH2 4LH 8AE ("the Applicant"); and**

**Aberdein Considine, 18 Waterloo Street, Glasgow, G2 6DB, ("the Applicant's Representative") and**

**Mr Chinedu Ezunu and Mrs Nnenna Michelle Ndife-Ezunu, both residing at 95 Queen's Den, Aberdeen, AB15 8BN ("the Respondents") and**

**DJP Solicitors, 226 Holburn Street, Aberdeen, AB10 6DB ("the Respondents' Representative")**

**Tribunal Members:**

**G McWilliams- Legal Member  
A Moore - Ordinary Member**

**Decision:**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determines to grant the Application.**

### **Background and Case Management Discussion on 11<sup>th</sup> May 2026**

1. The Respondents Mr Ezunu and Mrs Ndife-Ezunu entered into a short-assured tenancy agreement with Mr L Walker in July 2017. Mr Walker defaulted in his mortgage payments to the Applicant, TSB Bank Plc. TSB Bank Plc obtained a Decree to enter into possession of the Property, and sell it, at Aberdeen Sheriff Court on 6<sup>th</sup> February 2025. The Applicant through their Representative, served a Notice to Quit the Property as well as a Notice in respect of their intention to raise proceedings for possession of the Property on the Respondents, on 4<sup>th</sup>

July 2025. The Applicant's Representative submitted this Application to the Tribunal on 31<sup>st</sup> October 2025.

2. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call, at 2.00pm on 11<sup>th</sup> May 2026. The Applicant's Representative's Miss C Mullen attended as did the Respondent Mr Ezunu and the Respondent's Representative's Mr Purdie.
3. Miss Mullen stated that TSB Bank Plc wish to have an eviction order granted and will keep Mr Purdie and the Respondents advised of details of the marketing of the Property given that the latter have expressed a wish to purchase the Property.
4. Mr Purdie and Mr Ezunu stated that the Respondents wish to have sufficient time to organise funding for their hoped-for purchase of the Property failing which to move out of the Property. Mr Ezunu stated that he and Mrs Ndife-Ezunu reside in the Property with their children, aged 9, 12 and 14, and Mr Ezunu's aunt. He said that his family are returning to their home country Nigeria during their children's school summer holiday, between mid-June and the first week in August 2026.

### **Findings in Fact and Law**

5. TSB Bank Plc are entitled to recover possession of the Property, and to sell it, as a result of the mortgage default of Mr L Walker, and in terms of a Court Decree dated 6<sup>th</sup> February 2025.
6. Mr Ezunu and Mrs Ndife-Ezunu and their family require an appropriate period of time to arrange to either purchase or move out of the Property, in which they have resided since 2017.
7. The ground upon which the Application proceeds, namely Ground 2 in Schedule 5 to the Housing (Scotland) Act 1988 ("the 1988 Act") is satisfied. It is reasonable that an order for possession is granted.
8. It is also reasonable that the order for possession is not enforced before 3<sup>rd</sup> August 2026 given Mr Ezunu and Mrs Ndife-Ezunu's family's circumstances, and their desire to purchase the Property.

### **Reasons for Decision**

9. Section 16 of the Housing (Scotland) Act 2014 provides as follows:

"16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

- (b) a Part VII contract (within the meaning of section 63 of that Act),
- (c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

10. Accordingly, the Tribunal now has jurisdiction in relation to claims by applicants, such as TSB Bank Plc, against tenants such as Mr Chinedu Ezunu and Mrs Nnenna Ndife-Ezunu, for possession of properties which have been subject to tenancy agreements, such as the tenancy agreement between Mr Walker and Mr Chinedu Ezunu and Mrs Nnenna Ndife-Ezunu.
11. In terms of Section 18 of the 1988 Act the Tribunal shall not make an order for possession of a house let on a tenancy except on one or more of the grounds set out in Schedule 5 to the 1988 Act.
12. Ground 2 in Schedule 5 to the 1988 Act provides that it is an eviction ground that, regarding a property which is subject to a heritable security granted before the creation of the tenancy, as a result of a default by the security debtor the creditor is entitled to sell the house and requires vacant possession to exercise that entitlement and it is reasonable to dispense with the requirement of notice having been given to the tenant of the property, not later than the date of commencement of the tenancy, that possession might be recovered on that Ground..
13. The Tribunal considered all of the available evidence and oral submissions.
14. Having considered and weighed the available evidence, and taken account of the submissions of Miss Mullen, Mr Purdie and Mr Ezunu, the Tribunal found in fact, on a balance of probabilities, that Mr Walker was in mortgage default. They found that TSB Bank Plc are entitled to recover possession of the Property, and to sell it. The Tribunal further found that Mr Ezunu and Mrs Ndife-Ezunu and their family require an appropriate period of time to arrange to either purchase or move out of the Property, in which they have resided since 2017.
15. Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”) provides that the Tribunal may do anything at a CMD which it may do at a Hearing, including making a decision. Having made the above findings in fact, the Tribunal found in law that Ground 2 in Schedule 5 to the 1988 Act is met and that it is reasonable that TSB Bank Plc are granted an order to recover the Property and sell it after a suitable period of time, until 3<sup>rd</sup> August 2026, has been given to Mr Ezunu and Mrs Ndife-Ezunu to make arrangements to purchase or move out of the Property.

## **Decision**

16. The Tribunal grants an order for TSB Bank Plc’s possession of the Property at 95 Queen’s Den, Aberdeen, AB15 8BN with a deferred enforcement date of 3<sup>rd</sup> August 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.**

**G McWilliams**

---

**Tribunal Legal Member**

**11<sup>th</sup> May 2026**

---

**Date**