



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/2725

Re: Property at 88 Pratt Street, Kirkcaldy, Fife, KY1 1SA (“the Property”)

Parties:

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

Ms Karen Dryburgh, 88 Pratt Street, Kirkcaldy, Fife, KY1 1SA (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 2 of schedule 3 of the 2016 Act are met in this case.

The Tribunal therefore made an order under section 51 of the 2016 Act.

In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 30 July 2026.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 2 as the ground for eviction, stating that the mortgage lender required to sell the property having obtained a decree for repossession against the landlord.
- 2 The application was accepted and referred to a tribunal for determination. A case management discussion (“CMD”) was scheduled to take place on 28 January 2026. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the

Respondent by sheriff officers on 9 December 2025 and invited her to make written representations in response to the application no later than 30 December 2025.

- 3 The Respondent did not lodge any opposition or submit any written representations in response to the application. Between 5 and 23 January 2026 the Tribunal received emails from the Respondent's social work assistant and a third party who wished to act as her representative. The emails disclosed that the Respondent has disabilities, is unable to read or write, and cannot dial multiple numbers on a telephone pad. The Tribunal administration requested a signed mandate from the Respondent to appoint the proposed representative. No mandate was produced therefore the representative was not recorded on the Tribunal's system.

The CMD

- 4 The CMD took place on 28 January 2026 at 10am by teleconference. Ms Masters-Good, Solicitor, of Aberdeen Considine represented the Applicant. The Respondent did not attend and no third party appeared as a proposed representative.
- 5 Ms Masters-Good had not received the correspondence from the Respondent's social work assistant and proposed representative. Her submission was for the eviction order to be granted based on an intention of the Applicant to sell the property with vacant possession per their obligations to the debtor to get the best possible price for the property. She understood if the case had to be adjourned to enable the Respondent's views to be given and for the Respondent or a representative to attend so that she could participate in the process.
- 6 The tribunal adjourned to deliberate before resuming the CMD. The tribunal determined to fix a hearing and issue a Direction to the Respondent requesting further information regarding her position on the application, her circumstances, and her intentions regarding representation. The Direction was issued to the Respondent on 24 February 2026.
- 7 The tribunal further determined to make inquiries under Rule 20 of the Rules and issue an order to the Respondent's social work assistant, Fiona MacLeod, requiring her to provide further information regarding the Respondent's progress in securing alternative accommodation. The order was issued to Ms MacLeod on 24 February 2026.
- 8 On 25 February 2026 the Tribunal received a response from Ms MacLeod. In summary, Ms MacLeod advised that the Respondent had been allocated a homeless housing officer from Fife Council, however the council would not rehouse the Respondent until the date she was formally asked to leave the property. The Respondent would likely be placed in emergency or temporary accommodation. The Respondent had a live housing application and the council were aware of her learning disability and vulnerabilities. The

Respondent's dog would be unable to stay with her in the temporary accommodation which had caused the Respondent some distress. The Respondent would require a ground floor property which were in low stock across Fife. The Respondent had also applied to a local housing association. The Respondent received support with her personal care, and with managing her finances as she is unable to manage most day-to-day tasks independently.

- 9 On 8 June 2026 the Tribunal received an email from Mr Colin Storrie with a written mandate from the Respondent authorising him to act as her representative.

The hearing

- 10 The hearing took place on 29 June 2026 at 10am by teleconference. Miss Katie McDonald, Solicitor, of Aberdeen Considine represented the Applicant. Mr Storrie represented the Respondent.
- 11 The tribunal had the following documents before it:-
 - (i) The Form E application and supporting documents, including a partial copy of the tenancy agreement, extract decree dated 9 August 2022 against Chattar Pal Singh, notice to leave with proof of service, section 11 notice with proof of service, and Form BB to the occupier.
 - (ii) Title Sheet confirming Chattar Pal Singh as the registered owner of the property and an excerpt from the online landlord register showing Chattar Pal Singh as the registered landlord.
 - (iii) Email from Fiona MacLeod dated 24 February 2026.
 - (iv) Email from Colin Storrie dated 8 June 2026 with written mandate from the Respondent authorising him to act as her representative.
- 12 The tribunal explained the purpose of the hearing and heard preliminary submissions from the parties.
- 13 Mr Storrie confirmed that the Respondent does not oppose the eviction order. She wants the matter to be dealt with. She is not looking for any delay in the enforcement of the order. She is prepared and ready to leave the property.
- 14 Miss McDonald maintained the Applicant's submission that an eviction order should be granted to allow the Applicant to sell the property.

Reasons for decision

- 15 The tribunal was satisfied it had sufficient information to reach a decision on the application in terms of the documentary evidence and oral submissions from the parties. The tribunal noted that the Respondent did not oppose the eviction

order and had not submitted any evidence to contradict the terms of the application.

- 16 Section 51 of the 2016 Act provides that *“The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”*
- 17 Section 52 of the 2016 Act goes on to state that *“an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.”* The tribunal had before it a copy of a notice to leave in the prescribed form that had been given to the Respondent which cites ground 2 of schedule 3 of the 2016 Act. The tribunal was also satisfied that the Applicant had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.
- 18 The tribunal considered the wording of ground 2 of schedule 3 of the 2016 Act:-
*“2(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.”*
- 19 The tribunal accepted that paragraphs 2(a), (b), and (c) have been established by the Applicant in this case. The tribunal had before it the extract decree against the registered owner and landlord which entitles the Applicant to enter into possession and sell the property. The tribunal further accepted that the Applicant requires vacant possession to secure the best possible price for the property and fulfil its duty towards the debtor and his creditors. The Respondent did not seek to dispute this.
- 20 The tribunal further accepted that it would be reasonable to make an eviction order in the circumstances of this case. Whilst the Respondent is an extremely vulnerable individual, Mr Storrie was clear in his submissions at the CMD that she does not oppose the eviction order. She wants the matter brought to an end.
- 21 It is regrettable that the council were entrenched in their position to only consider the Respondent's homeless application once an eviction order is made, particularly given the extent of the Respondent's housing needs. The tribunal found it difficult to understand why the council would leave the Respondent vulnerable to the prospect of emergency or temporary accommodation and the risks associated with such environments, particularly as they have been aware for several months of her need for accommodation. It is clear that no progress will be made on the Respondent's application for

housing until such time as the tribunal makes the order. Accordingly, the tribunal considered that those factors weighed in favour of making the eviction order despite the extent of the Respondent's disabilities and vulnerabilities.

22 The tribunal therefore concluded that the provisions of paragraph 2 of schedule 3 of the 2016 Act have been met in this case and determined to make an eviction order.

23 The decision of the tribunal was unanimous.

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.

Ruth O'Hare

29 June 2026

Legal Member/Chair

Date