



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/25/5199

Re: Property at 35C (also known as 2/1) Balcurvie Road, Easterhouse, Glasgow, G34 9QL (“the Property”)

Parties:

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

Nnaemekwa Adwuofor Chukwudi, 35C (also known as 2/1) Balcurvie Road, Easterhouse, Glasgow, G34 9QL (“the Respondent”)

Tribunal Members:

Serena Weir (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 02 December 2025 the Applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“**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**”). Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, Notice to Leave/proof of service of same, the Section 11 Notices to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same, a copy of the notice sent to the Occupier (including any Tenant) on 18 June 2024 as part of the repossession proceedings taken forward by the Applicant in relation to the landlord of the Property and a copy Extract Decree dated 31 December 2024 in relation to those repossession proceedings.
2. On 22 April 2026 the application was accepted by the Tribunal and referred for determination by the Tribunal.
3. A Case Management Discussion (“**CMD**”) was set to take place on 16 June 2026 and appropriate intimation of that hearing was given to all parties. The

application, supporting papers and details of the CMD were served on the Respondent by Sheriff Officer on 12 May 2026. In terms of said notification, the Respondent was given an opportunity to lodge written representations. None were lodged prior to the CMD.

The Case Management Discussion

4. The CMD took place on 16 June 2026 via telephone case conference. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but the Respondent did not do so. The Applicant was represented at the hearing by Katie Macdonald of Aberdeen Considine Solicitors. The Respondent did not take part.
5. Following introductions and introductory remarks by the Legal Member, the Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
6. The Tribunal asked various questions of the Applicant's representative with regard to the application.
7. The Tribunal noted that the eviction was sought under and in terms of ground 2 of schedule 3 of the Act. 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 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.

8. The Respondent was the tenant of a lease of the Property which was a Private Residential Tenancy under and in terms of the 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 2.
10. The Applicant has a heritable security over the Property. The owner and landlord of the Property had failed to pay to the Applicant the sums owed under a mortgage over the Property. As a result, the Applicant had raised proceedings in the Sheriff Court for an order to enforce their rights under the heritable security and repossess the Property. The Respondent's lease was entered into after the date on which the Sheriff Court has granted the Applicant an order to enforce their rights under the heritable security and repossess the Property.
11. The Applicant had instructed Sheriff Officers to carry out occupancy reports in relation to the Property. The Respondent was living in the Property together with the tenant against whom the application with reference FTS/HPC/EV/26/1253 had been raised.

12. The Applicant had written to the Respondent but had received very limited engagement. As a result, the Applicant's representative was not able to provide any information about the Respondent's state of health, employment status or steps taken to find alternative accommodation.
13. The Applicant is entitled to sell the Property. The Applicant requires the Respondent to leave the Property for the purpose of disposing of it with vacant possession in order to achieve the best possible price. .
14. The Tribunal Members adjourned to consider the application and, on re convening, confirmed that the Tribunal was satisfied that the eviction application was in order and that it was reasonable for the order sought to be granted today.

Findings in fact

15. There is a heritable security registered against the Property in favour of the Applicant.
16. In terms of the Extract Decree dated 31 December 2024, the Applicant is entitled to sell the Property.
17. The Applicant requires the Respondent to leave the Property for the purpose of disposing of it with vacant possession in order to achieve the best possible price. .
18. The Respondent was a tenant of the Property by virtue of a Private Residential Tenancy in terms of the Act which commenced on 31 January 2025.
19. The agreed monthly rental was £450.
20. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by the Applicant.
21. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 07 October 2025.
22. The application was submitted to the Tribunal on 18 March 2026.
23. The Property is occupied by the Respondent Property together with the tenant against whom the application with reference FTS/HPC/EV/26/1253 has been raised.

Discussion and reasons for decision

24. The Tribunal gave careful consideration to the application and supporting documentation, the procedural background to the application and the oral representations at the CMD by the Applicant's representative.
25. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the relevant provisions of the Act.
26. The ground for eviction under which this application was made is the ground contained in paragraph 2 of schedule 3 of the Act. The ground is that the lender intends to sell the let Property. When the 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.

27. Since 07 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.
28. The only matter to be determined in this application is whether it is reasonable to grant the order.
29. The order for possession was sought by the Applicant on a ground specified in the Act and properly narrated in the notice served upon the Respondent.
30. The Tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the Applicant was entitled to seek recovery of possession of the Property based upon that ground.
31. The Tribunal accepted the unchallenged evidence that the Applicant intends to sell the Property once the Respondent, together with the tenant against whom the application with reference FTS/HPC/EV/26/1253 has been raised, have ceased to occupy the Property.
32. The ground for eviction was accordingly established.
33. 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 a frequently 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".
34. The Respondent had not entered into the Tribunal process and the Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on behalf of the Respondent.
35. The Tribunal accepts the unchallenged evidence of the Applicant that the Property is the subject of a heritable security, the Applicant is entitled to sell the Property and requires the Respondent and the tenant against whom the application with reference FTS/HPC/EV/26/1253 has been raised, to be removed from the Property so that it can be sold with vacant possession to achieve the best possible price.
36. The Tribunal finds that it is reasonable to grant the order.
37. The Tribunal also exercised the power within rule 17 of the procedure rules 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.

16th June 2026

Legal Member/Chair

Date

Serena Weir