



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/26/0632**

**Re: Property at 63 Pratt Street, Kirkcaldy, KY1 1RZ (“the Property”)**

**Parties:**

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

**Mr Claudiu Dorot, 63 Pratt Street, Kirkcaldy, KY1 1RZ (“the Respondent”)**

**Tribunal Members:**

**Craig Chisholm (Legal Member) and Elaine Munroe (Ordinary Member)**

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

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

**Background**

1. By application dated 9 February 2026, the Applicant sought an order in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”).
2. On 2 March 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 21 August 2026, and appropriate intimation of that hearing was given to all parties.

## **The Case Management Discussion**

4. The CMD took place on 21 August 2026 *via* telephone conference call. Ms Hamilton from Messrs Aberdeen Considine LLP appeared on behalf of the Applicant. The Respondent was not personally present or represented at the CMD.
5. 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 Applicant's representative confirmed the Applicant wished for the order for eviction to be made.

## **Findings in Fact**

8. The Applicant has a heritable security registered against the Property.
9. The Applicant obtained a decree for repossession of the Property against Mr Alan John Wilson on 12 August 2025.
10. Mr Wilson is the registered owner of the Property.
11. Mr Wilson and the Respondent are respectively the landlord and tenant under a Private Residential Tenancy Agreement in terms of the 2016 Act for the Property, which commenced on 30 August 2022.
12. On 22 October 2025 the Applicant served upon the Respondent a Notice to Leave (NTL) as required under the 2016 Act. Service was effected by personal delivery by Sheriff Officers on that date. The NTL informed the Respondent that the Applicant wished to seek recovery of possession under ground 2 contained within Schedule 3 of the 2016 Act, namely that the Property is to be sold by the mortgage lender.
13. The NTL was correctly drafted and gave appropriate periods of notice as required by law.
14. The Applicant obtained decree from Kirkcaldy Sheriff Court under court reference KKD-B260-25 against Mr Wilson on 12 August 2025. The Court granted decree in terms that the Applicant has the right to sell the Property in terms of the Conveyancing and Feudal Reform (Scotland) Act 1970.

15. The basis for the order for possession on ground 2 was thus established.

### **Reason for Decision**

16. The order for possession sought by the Applicant was based on the ground specified in the 2016 Act and was properly narrated in the NTL served on the Respondent. The Tribunal was satisfied that the NTL had been served in accordance with the terms of the 2016 Act and that the Applicant was entitled to seek recovery of possession based upon that ground.

17. The Tribunal accepted the unchallenged evidence of the Applicant. Attempts had been made by the Applicant to engage with the Respondent in relation to eviction proceedings and the Respondent had not engaged with the process. The Applicant arranged for Sheriff Officers to attend the Property on 17 August 2026, who confirmed that the Respondent remained in the Property. The Applicant was bound by obligations under the Conveyancing and Feudal Reform (Scotland) Act 1970 to seek the best price for the Property on the open market and, as a consequence, submitted that a higher valuation was more likely to be achieved if the Property was sold with vacant possession.

18. The Tribunal was satisfied that the Respondent was aware of proceedings and had not taken any steps to engage in the eviction proceedings.

19. Ground 2 was accordingly established.

### **Decision**

20. The Tribunal 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. This is confirmed by one of the leading English cases, *Cumming v Danson* [1942] 2 All ER 653 at 655, where Lord Greene MR said:

*“In 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 conclusions 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.”*

21. 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.
22. In this case, the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the Applicant for the reasons noted above.

### **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.**

# Craig Chisholm

**21<sup>ST</sup> August 2026**

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**Legal Member/Chair**

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**Date**