



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 Act”)

Chamber Ref: FTS/HPC/EV/26/0072

Re: Property at 8 Cartside Street, Righthand House on ground floor, Glasgow, G42 9TF (“the Property”)

Parties:

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

Ms Tayyiba Rafique, 8 Cartside Street, Righthand House on ground floor, Glasgow, G42 9TF (“the Respondent”)

Tribunal Members:

Susan Christie (Legal Member) and Eileen Shand (Ordinary Member)

Decision

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, with the Order not to be executed prior to 12 noon on 4 November 2026.

Background

1. The Applicant’s agent lodged an application for an eviction order in terms of section 51 and Ground 2 of the Act on 19 December 2025. It was accepted by a legal member of the First-Tier Tribunal with delegated powers to do so on 30 January 2026.
2. Along with the application there was lodged the private residential tenancy agreement (“PRT”), Notice to Leave with evidence of service, a section 11 notice on the local authority, an extract decree in favour of the Applicant dated 2 August 2019, notice of calling up, and another notice to the local authority.
3. A copy of the application and paperwork was served on the Respondent by Sheriff Officer service on 27 July 2026 and the Parties were notified that a Case Management Discussion (“CMD”) would take place by conference call on 26 August 2026 at 2 p.m.
4. A written response was submitted to the tribunal by the Respondent.

Summary of the Case Management Discussion (CMD)

1. The CMD took place on 26 August 2026 from 2p.m. and finished around 4 p.m. The Applicant was represented by Ms Imrie, solicitor. The Respondent participated and was accompanied by her cousin. An e mail authority was submitted during the CMD and Mr Raffey became the Respondent's representative.
2. The documents lodged in support of the application were discussed.
3. Ms Imrie asked the tribunal to grant an eviction Order. Decree for recovery had been granted on 2 August 2019 which gave the Applicant warrant to sell the Property with vacant possession. A Notice to Leave had been served on the Respondents with a live date of 2 September 2025. It was explained that after decree had been granted in favour of the Applicant steps had been taken to enforce the decree, but the owner Mr Imran Razzaq had let the property out to two separate tenants after the decree. This had resulted in Notices to leave being served on the then tenants around 2020 and 2021, and a process embarked upon to obtain possession. The Applicant was just about to obtain vacant possession of the property when Sheriff Officer's discovered the Respondent living there. A Notice to leave was therefore served on her on 9 June 2025. The Applicant required vacant possession to implement the terms of the decree. The owner had not repaid the full debt due. He had let the property out three times now, preventing the Applicant's remedy. The bank did not become the landlord and did not obtain any rent monies paid. They did not wish to be the landlord. They simply wished to sell for the best price. The owner had told the Applicant he had also served a Notice to Leave on the tenant and he intended to sell it. The Applicant's agents had tried over a lengthy period to finalise matters. Prior to this application and throughout, communications had been sent to the property, and the Respondent had had herself ample time to seek legal advice and alternative accommodation. If the tribunal was minded granting some time for the Respondent to leave it was requested this be no more than 3 months.
4. The Respondent appreciated the reason for the application but sought further time to leave. She initially spoke for herself; and her Representative gave the tribunal a further summary of her position. She lived there with her husband and young child. He husband was in Pakistan at a funeral but was due to return soon. They would need time to seek alternative accommodation. They were new here and had taken on this lease after being told about it by a friend of her uncle. When they received letters about it being recovered, they had spoken to their landlord the owner and he had told her it was being sorted out, and he would pay what was owed to the lender. She had given the Sheriff Officer's a copy of her lease. She was paying rent of £600 per month which was the increased rent asked for, and she was paying Shiela Razzaq that. She had taken no steps to engage with the local authority. She had not spoken to anyone else for advice, only her landlord. She would look at listings to see what was available to let. However, she would wish 5-6 months to move out. The landlord had been seeking access to allow new potential tenants to view the property. They had been reluctant to allow access for that. No-one in the household had any health issues. Her husband was in full time employment. No changes or adaptations had been made to the property.

5. The tribunal explored the views of both Parties around the timing of the enforcement of an Order, if granted. This is expressed above.
6. The tribunal adjourned to consider their decision then reconvened.

Findings in Fact

1. There is a private residential tenancy between the Respondent and the original mortgage customer of the Applicant, Mr Imran Razzaq with a start date of 18 April 2022.
2. The mortgage customer had granted a standard security over the Property in favour of the Applicant some time ago.
3. Notice to the occupiers was served, intimating that the said standard security was being called up by the Applicant.
4. The calling up notice to the mortgage customer dated 19 October 2018 was not complied with.
5. On 2 August 2019 at Glasgow Sheriff Court a decree was granted against Imran Razzaq for recovery of possession, following on from a Calling up Notice, entitling the Applicant to lawful possession to the Property; to sell it; and ordained any persons occupying it to vacate, granting warrant for their summary ejection.
6. The Applicant is entitled to sell the Property.
7. The Applicant served a Notice to Leave on the Respondents under Ground 2 of Schedule 3 to the Act on 9 June 2025.
8. A section 11 Notice in terms of the Homelessness Etc. (Scotland) Act 2003 was served on the relevant local authority.
9. The Applicant wishes to sell the Property on the open market, with vacant possession.
10. The mortgage customer had let out the property post decree, impeding the Applicant's right to sell and has delayed the recovery process.
11. The mortgage customer is not a registered landlord for the property as it is not on the register.
12. The Respondent is paying her rent to Shiela Razzaq at £600 per month.
13. The mortgage customer misled the Respondent suggesting that repossession had been resolved.
14. The mortgage customer has asked the Respondent for viewing access.
15. The First Named Respondent has not applied for local authority housing and will look to the private rented sector for alternative housing. Her husband is in full time employment and has an income.

Reasons for Decision

1. The tribunal considered that having heard from the Parties present that there was sufficient material before it, mostly undisputed, to decide; and that it would not be contrary to the interests of the Parties.
2. The ground for recovery relied on is Ground 2 of Schedule 3 of the Act, namely:

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.

3. The tribunal was satisfied on the written documentation, that the legal requirements to establish parts (1) and 2(a)-(c) of Ground 2 of Schedule 3 of the Act were met namely; the let property is subject to a heritable security; the creditor under that security is entitled to sell it; and the creditor requires the Respondent to leave the Property for the purposes of disposing of it with vacant possession.
4. Those parts of the Ground for recovery were undisputed.
5. The tribunal then considered whether it was reasonable to grant the Order. In doing so, the tribunal considered the information given to it.
6. The tribunal had regard to the grant of a decree that affirmed the Applicant had called up the standard security. That the Applicant is entitled to sell the Property at a price that is as best as can reasonably be obtained under the Conveyancing and Feudal Reform (Scotland) Act 1970 and is entitled to vacant possession for that purpose.
7. The tribunal noted with some concern the history of events since the grant of the decree. The mortgage customer had let the property out on three known occasions despite him not being, at least currently, a registered landlord. In that respect, for this current application, he had acted unlawfully in doing so. The tribunal was concerned that this compromised the position of the Respondent as a tenant. In addition, the rent was being paid to a Shiela Razzaq. Further, knowing of the existence of these proceedings through his dealings with the Respondent which she spoke about, he was said to be taking steps to have new potential tenants view the property.
8. The Respondent did not take any issue with the Ground for recovery relied on. Instead, her concerns were regarding the timing of implementation and sought further time to leave. She sought 5-6 months to allow her time to seek alternative accommodation. Her position was that she had been assured by the landlord that he would resolve the situation with the lender. This turned out not to be the case. It is also of note that against that assurance, the landlord was asking for access to carry out viewings. Those positions did not sit well together.
9. Before deciding, the tribunal had enquired as to the Parties views on the timing of enforcement of any Order made. The Applicant's agent sought principally no delay in execution but equally took no issue if the tribunal decided to an extension of no more than 3 months. The Respondent indicated that the family unit comprised of herself, her husband who is in full time employment and her young child. No-one in the household had any health issues. No changes or adaptations had been made to the property. She had taken no steps to engage with the local authority. She had not spoken to anyone else for advice, only her landlord. She would look at listings to see what was available to rent.

10. The tribunal weighed each of the respective positions against the other to decide which would be the most appropriate timing for enforcement of the Order. The tribunal noted that the Notice to leave was served on the Respondent on 9 June 2025. Before that, the decree had been granted on 2 August 2019. The landlord had let the property out on three occasions since then, delaying enforcement of the decree. He was not currently a registered landlord for this property, as the property was not on the register. He appeared to have possibly misled the Respondent that she would not need to be concerned about the paperwork she had received. However, he had been also asking for viewing access. Some time had passed since the service of the Notice to leave, and had the Respondent sought independent advice she might well have acted sooner around her housing options. This for the tribunal was a weighing factor. The tribunal observed that it was being asked to allow a tenant to reside in an unregistered property for a lengthy period.
11. The tribunal granted the eviction Order. The tribunal concluded that it would be reasonable to afford further time before enforcement when granting the Order, but for a restricted period of 10 weeks to allow the Respondent some time to make enquiries and secure alternative accommodation. This was a fair balance between the rights of the Applicant and of the Respondent when considering the reasonableness of granting the order.
12. The decision of the tribunal is 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.

Legal Member/Chair

Susan Christie

26 August 2026

Date