



**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/26/0446

**Re: Property at Flat 1 5 East Pilton Farm, Crescent (otherwise 5/1), Edinburgh,
EH5 2GF (“the Property”)**

Parties:

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

**Ms Sandra Tersigni and Mr Riccardo Gali, Flat 1 5 East Pilton Farm, Crescent
(otherwise 5/1), Edinburgh, EH5 2GF (“the Respondents”)**

Tribunal Members:

Shirley Evans (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of Mr Gali)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at Flat 1 5 East Pilton Farm, Crescent (otherwise 5/1), Edinburgh, EH5 2GF under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondents. The order will include a power to Officers of Court to eject the Respondents and family, servants, dependants, employees, and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

Background

1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The Applicant’s case is

based on Ground 2 (Property to be sold by Lender) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act").

2. The application was accompanied by a copy Private Residential Tenancy Agreement between Richard Elby and the Respondents dated 10 August 2018, a Notice to Leave dated 2 September 2025 together with Sheriff Officers Executions of Service dated 4 September 2025, an extract decree of repossession against Richard Elby from Edinburgh Sheriff Court dated 20 June 2024 and extracted on 5 July 2024, a Form BB dated 19 January 2024 and a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with email to Edinburgh City Council dated 28 January 2026.
3. On 27 July 2026 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 27 August 2026. This paperwork was served on the Respondents by Paul Cameron, Sheriff Officer, Edinburgh on 27 July 2026 and the Executions of Service were received by the Tribunal administration.
4. On 26 August 2026 Mr Wilson from Edinburgh Housing Advice Partnership (EHAP) and Community Help & Advice Initiative (CHAI) intimated that he was representing Ms Tersigni.

Case Management Discussion

5. The Tribunal proceeded with the CMD on 27 August 2026 by way of teleconference. The Applicant was represented by Ms Imrie, from Aberdeen Considine solicitors. Mr Wilson appeared for Ms Tersigni. He advised the Tribunal that Mr Gali was the Ms Tersigni's son and had left the Property about two years ago.
6. The Tribunal had before it the copy Private Residential Tenancy Agreement between Richard Elby and the Respondents dated 10 August 2018, the Notice to Leave dated 2 September 2025 together with Sheriff Officers Executions of Service dated 4 September 2025, the extract decree of repossession against Richard Elby from Edinburgh Sheriff Court dated 20 June 2024 and extracted on 5 July 2024, the Form BB dated 19 January 2024 and the Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with the email to Edinburgh City Council dated 28 January 2026. The Tribunal noted the terms of these documents.
7. Ms Imrie moved the Tribunal to grant an order to evict. She submitted that Decree of repossession had been awarded in favour of the Applicant on 20 June 2024 with the instruction to obtain vacant possession. The Notice to Leave had been served on the Respondents on 4 September 2025 and the Form BB in January 2024. Their occupancy reports confirmed that Mr Gali no longer resided in the Property. She submitted that Ms Tersigni had had ample time to get alternative accommodation and to seek legal advice. Her

client had a duty to obtain the best price for the Property and required vacant possession to do so. In the circumstances it was reasonable to evict.

8. In response Mr Wilson submitted that his client did not oppose the application. She had been referred to him at the last minute by Crisis. He had spoken at length with her. She did not oppose the application. Her 76 year old mother lived with her. Her mother had health difficulties which required her to walk with an aid. Ms Tersigni was not in a financial position to go into another private let. She was 57 years of age. She had approached Edinburgh City Council as soon as notices had been served but due to the housing crisis she would not be offered accommodation until an order to evict was granted. The added difficulty was that she could not get a reference from her landlord. In the circumstances he asked that the Tribunal consider suspending any order it was inclined to grant for a period of 2-3 months for his client to find suitable alternative accommodation for her and her mother.
9. On being questioned by the Tribunal he advised that he understood that she would be given Gold priority but that nevertheless as her mother needed a ground floor or a property with a lift he was not sure how difficult it would be for the Council to provide that accommodation.
10. The Tribunal asked Ms Imrie if after she had heard Mr Wilson's submissions she was in a position to consent to any order being suspended. She confirmed she had no instructions.

Reasons for Decision

11. The Tribunal considered the issues set out in the application together with the documents lodged in support and Ms Imrie's and Mr Wilson's submissions. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 2, namely the Property is to be sold by the Lender. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict.
12. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.
13. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicant's intention to sell the Property at Part 2 of the Notice in terms of Ground 2 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2). The Notice to Leave was served on the Respondents by Sheriff Officers on 4 September 2025. In terms of Section 54 the notice period of the

Notice to Leave is 84 days the Respondents having lived in the Property for more than 6 months. The Notice to Leave stated the earliest date the Applicant could apply to the Tribunal was 28 November 2025. In the circumstances the Tribunal is satisfied the Respondents have been given sufficient notice. Accordingly, the Notice to Leave complies with Section 62.

14. The application was not opposed by Ms Tersigni. Mr Gali was no longer resident in the Property. However the Tribunal was mindful that Ms Tersigni's elderly mother lived with her and that suitable alternative accommodation may be more difficult to come by with her health issues which restricted her mobility. The Tribunal was satisfied on the basis of the documents lodged, together with Ms Imrie's submissions that the factual basis of the application had been established in relation to Ground 2 and was satisfied the Applicant intended to sell the Property as soon as they regained possession. The Tribunal accepted, based on the documents provided by the Applicant, that a standard security had been granted in their favour by Richard Elby over the Property and that the Applicant had a sheriff court decree against Mr Elby following the calling up of the standard security that entitled them to recover possession and sell the Property.
15. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicant's intention was to sell the Property when they obtained possession and that they required vacant possession to do so. The Respondents had received the Notice to leave on 4 September 2025 advising them they had to leave the Property by 28 November 2025. Mr Gali was no longer in the Property. Ms Tersigni had sensibly taken independent advice from Mr Wilson and had been in contact with Edinburgh City Council. On balance the Tribunal considered the balance of reasonableness in this case weighted towards the Applicant. However the Tribunal was mindful that Ms Tersigni's elderly mother lived with her and that suitable alternative accommodation may be more difficult to come by with her health issues which restricted her mobility. The Tribunal considered it was reasonable to allow her additional time to find alternative accommodation with the Council. The Tribunal find it would be reasonable to grant the order suspended until 27 November 2026.
16. In the circumstances the Tribunal considered that in terms of Ground 2 of Schedule 3 of the 2016 Act it was reasonable to grant an eviction order, in terms of Section 51 of the 2016 Act.

Decision

17. The Tribunal granted an order for repossession suspended by three months to 27 November 2026. 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.

Shirley Evans

27 August 2026

Legal Member

Date