



**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/22/4050**

**Re: Property at 1/2 100 Forth Street, Glasgow, G41 2TB (“the Property”)**

**Parties:**

**Santander UK Plc, 2 Triton Square, Regents Place, London (“the Applicant”)**

**Mr Muhammad Zabir Tanoli, Mr Shahbaz Ahmed, Mr Muhammad Hazaifa, 1/2 100 Forth Street, Glasgow, G41 2TB (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member) and Frances Wood (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondents.**

## **1. Introduction**

This Case Management Discussion (CMD) concerned an Application for an Eviction Order in respect of a Private Residential Tenancy under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference. Parties were advised on the procedure of a CMD and the rules regarding them.

## **2. Attendance and Representation**

The Applicants were represented by Eleanor Hamilton, Ascent Legal, 2nd Floor, 1 West Regent Street, Glasgow.

The Respondents were not present and unrepresented. No written representations were lodged. All respondents were served by Sheriff Officer on 28<sup>th</sup> February 2023.

### **3. Preliminary Matters**

There was no attendance or appearance for the Respondents and the Applicant's representative said that the Applicants instructed a field agent to do a drive by of the property with no contact with the Respondents made but this concluded that in February 2023 the property was occupied. There had been no contact with the Respondents.

There were no other preliminary matters raised.

### **4. Case Management Discussion.**

The Applicant's representative set out that the applicant sought an Eviction Order on the basis that the requirements of ground 2 of the 2016 Act were met namely she submitted that :

1. The property was subject to a heritable security and she referred to the title sheet lodged in favour of Abbey National now Santander dated 7<sup>th</sup> August 1998, and
2. That the creditor was entitled to sell the property and she referred to the decree granted on 7<sup>th</sup> November 2021 in order that the Applicants can sell the property.

The Applicant's representative said that the Applicants had instructed recovery by Sheriff Officer in May 2022 and on entry the officers found the Respondents who provided a tenancy agreement. The Applicant had been unaware there were tenants. To the Applicant's knowledge the tenants are 3 individual males living there.

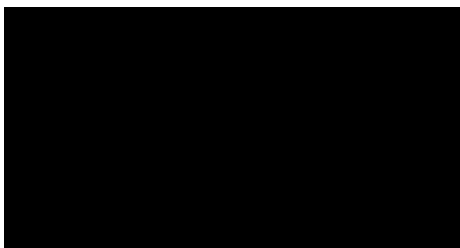
### **5. Reasons for Decision and Findings in Fact**

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondents had been served by Sheriff Officer at the address on 28<sup>th</sup> February 2023 and had not appeared, arranged representation or provided written representations.**
- 2. The Applicants sought an Order for Eviction on the ground that the lenders sought to sell the property.**
- 3. An Extract Decree under the Conveyancing and Feudal Reform (Scotland) Act 1970 in favour of the Applicants in regards the property was lodged pronounced at Glasgow Sheriff Court on 17th November 2021.**
- 4. The Tribunal was satisfied that the property was subject to a heritable security in favour of the Applicants. A copy of same was lodged with the Application.**
- 5. A Notice to Leave was sent to the Respondent on 4<sup>th</sup> July 2022.**

6. The Tribunal was satisfied that in terms of Ground 2 of Schedule 3 of the 2016 that the Property was to be sold by the Applicants as lender, that the lender intends to sell the let property, that the let property is subject to a heritable security, the creditor under that security is entitled to sell the property, and the creditor requires vacant possession for the purpose of disposing same.
7. The Tribunal found that the requirements of Ground 2, Schedule 3 to the Act had been met.
8. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
9. The Tribunal noted the Local Authority under the 2016 had been notified on 7<sup>th</sup> November 2022.
10. The Tribunal also considered reasonableness. The Respondents have had a long period of notice, their lease having not been authorised by the lender and they have been given proper notice and service by Sheriff officer without representations. They had not contacted the lender with any substantial information regarding their position. It was reasonable that the Applicants be able to sell the property and on what was known of the Respondents which was very little an order was on balance reasonable. The Tribunal found an Order in its discretion was reasonable in terms of the Coronavirus (Scotland) Act 2020.
11. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

### 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.



31st March 2023.

---

Legal Member

---

Date