



**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/25/1209**

**Re: Property at 72 Lismore Avenue, Kirkcaldy, KY2 6DF (“the Property”)**

**Parties:**

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

**Ms Justyna Boduch, 72 Lismore Avenue, Kirkcaldy, KY2 6DF (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Elizabeth Williams (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 eviction be granted against the respondent**

Introduction

This is an application for an eviction order under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 25 September 2025.

The CMD took place by teleconference on 5 November 2025 at 10.00 am. The applicant was represented by Miss McDonald of Aberdeen Considine, Solicitors. The respondent failed to participate in the hearing.

Findings and Reasons

The property is 72 Lismore Avenue, Kirkcaldy KY2 6DF. The applicant is The Bank of Scotland PLC. The applicant is the mortgage lender who obtained Decree for Repossession against the respondent by way of Sheriff Court Decree dated 30 July

2024 at Kirkcaldy Sheriff Court. The respondent is Ms Justyna Boducm who is the tenant.

The heritable proprietor is Mr Amir Attiq. He sought to enter a 'short assured tenancy' with the respondent. Such tenancies have not existed since 1 December 2017. The lease arrangement which commenced on 15 June 2022 is a private residential tenancy for the purposes of the 2016 Act.

The applicant relies upon ground 2 of schedule 3 of the Act. This is an eviction ground where the let property is to be sold by the mortgage lender. The relevant notice period under ground 2 was one of 84 days. The notice to leave is dated 29 November 2024 and stipulates that the earliest an application be submitted to the tribunal would be 27 February 2025. The notice to leave was served upon the respondent by Sheriff Officers on 4 December 2024. Sufficient statutory notice was given.

The heritable proprietor has no interest in being a landlord in respect of the repossessed property. The applicant seeks to sell the property to enable the mortgage to be repaid, including the arrears of the mortgage payments. The tribunal was satisfied based on the credible and reliable evidence produced that it is the applicant's genuine intention to sell the let property. The respondent does not challenge the Applicant's intentions.

The tribunal considered the reasonableness on the making of an eviction order. The respondent has not opposed the application. Little is known about her personal circumstances. It is believed that she lives alone and has no dependents. She has failed to engage with the applicant's agents. She previously advised Sheriff Officers instructed by the applicant that she had taken advice, had been advised to remain until further steps were taken, and was on the council waiting list for another tenancy. It is understood that she has ceased making rental payments.

A Section 11 homelessness notice has been issued to the local authority. The tribunal was satisfied that that the respondent will be provided with alternate accommodation in the event of an eviction order being made.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order.

### **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.**

# R. Mill

Legal Member/Chair

Date: 5 November 2025