



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 52 of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/19/0165

**Re: Property at Flat 3/2, 42 Govanhill Street, Glasgow, G42 7LD (“the
Property”)**

Parties:

Clydesdale Bank PLC, 30 St Vincent Place, Glasgow, G1 2HL (“the Applicant”)

**Miss Madalina-Ioana Astilean, Mr Sebastian Horvat, Flat 3/2, 42 Govanhill
Street, Glasgow, G42 7LD (“the Respondents”)**

Tribunal Members:

Lynsey MacDonald (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the grounds having been met, the eviction order
should be granted.**

1. Background

- 1.1. The Applicant sought an order for eviction on the grounds that the property is to be sold by the mortgage lender. An application in terms of Rule 109 (Private Residential Tenancy Eviction Order) was received by the Tribunal on 15th January 2019.
- 1.2. The Applicant lodged the lease dated 11th July 2018, two Notices to Leave dated 20th November 2018 together with executions of service thereof, a section 11 notice dated 14th January 2019, and an extract decree dated 6th April 2018.
- 1.3. The Tribunal fixed a Case Management Discussion for 11th March 2019 at 1000 hours, and this was intimated to parties. The

Respondents were served with the letters informing of the date fixed for the Case Management Discussion, together with the aforementioned documents, by Sheriff Officer. The Respondents were advised that written representations in response to the application were to be lodged by 5th March 2019. No responses have been received. The Respondents were also told that they were required to attend the Case Management Discussion today, and were informed that the Tribunal could today make any decision on the application that could be made at the full Hearing, if the Tribunal had sufficient information and considered that the procedure had been fair

2. The Case Management Discussion

- 2.1. The Applicant was represented by Ms Nicola McAtier.
- 2.2. By 1000 hours the Respondents had failed to attend at the venue. The Tribunal delayed in calling the Case Management Discussion, in order to allow extra time for the Respondents to attend in the event that they were running late. The Respondents failed to attend the Case Management Discussion.
- 2.3. The Applicant invited the Tribunal to proceed in the absence of the Respondents, and to grant the order. The Clerk had earlier confirmed that the Respondents had not been in contact with the Tribunal. The Applicant advised that the Respondents had not made any contact with the landlord or the Applicant following service of the Notices to Leave. The Tribunal was satisfied that the Respondents were aware of the Case Management Discussion, and that it was fair to proceed in their absence.
- 2.4. The Tribunal proceeded on the basis of the written documents which had previously been lodged, together with oral submissions from the Applicant in respect of those documents.

3. Findings in Fact

- 3.1. The Applicant is the heritable creditor in respect of the property, having previously been granted a Standard Security in their favour.
- 3.2. The owner of the property is John Paul Spence (hereinafter referred to as "the landlord").
- 3.3. On 6th April 2018 the landlord was found in default of the Standard Security, and the Applicant was granted decree for possession of the property.
- 3.4. The Applicant intends to sell the property.

- 3.5. The landlord entered into a tenancy agreement with the Respondents on 11th July 2018. The Applicant did not consent to the granting of the tenancy by the landlord to the Respondents.
- 3.6. On 26th November 2018 the Applicant served, by Sheriff Officer, Notices to Leave on the Respondents, indicating that possession of the property was required on 3rd January 2019.
- 3.7. The Respondents did not vacate the property.
- 3.8. The Application was submitted after the expiry of the notice period.

4. Reasons for Decision

- 4.1. There was nothing before the Tribunal challenging or disputing any of the evidence before it.
- 4.2. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") provides that, "*The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies*".
- 4.3. Schedule 3, paragraph (2) of the 2016 Act provides that:
 - (1) *It is an eviction ground that a lender intends to sell the let property.*
 - (2) *The First-tier Tribunal must find that the ground named by subparagraph (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;*
 - and*
 - (c) *The creditor requires the tenant to leave the property for the purpose of disposing of it with vacant possession.*
- 4.4. The Tribunal accepts that the Applicant is entitled to sell the property, that they intend to sell the property, and that they require vacant possession in order to do so.
- 4.5. Accordingly, the Tribunal was satisfied that grounds were met and that the Tribunal was required to grant the order.

5. Decision

The order for eviction is granted.

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.

Ms Lynsey MacDonald

Legal Member

11/03/19

Date