

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/19/1265**

**Re: Property at G01, 10 Kelly Street, Greenock, PA16 8NF (“the Property”)**

**Parties:**

**Mrs Teresa O’Hare, 20 Ardgowan Square, Greenock Road, Greenock, PA16 8NH (“the Applicant”)**

**Ms Claire Campbell, G01, 10 Kelly Street, Greenock, PA16 8NF (“the Respondent”)**

**Tribunal Members:**

**Jan Todd (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**Background**

1. A Case Management Discussion (CMD) was held at 2 p.m. on 5<sup>th</sup> July 2019 at the Gamble Halls Gourock.
2. Ms Theresa O’Hare, the Applicant appeared in person along with her legal representative Mr Kenneth Caldwell who was appearing as a local agent on behalf of the principal agent from Clarity Simplicity Ltd as unfortunately he had a sudden bereavement to attend to.
3. The respondent did not attend, nor did anyone appear on her behalf. Mr Caldwell showed an e-mail indicating that the Respondent had sought advice from LSA solicitors and in that e-mail it was confirmed that the Respondent was not intending to appear nor to be represented. Mr Caldwell also advised that the Respondent had indicated she was planning to move out of the Property in a few weeks.
4. As the CMD had been intimated on the Respondent by sheriff officer service on 4<sup>th</sup> June; that there had been no request for postponement and that the

Applicant had been advised the Respondent did not intend to appear or be represented; the Tribunal was satisfied it was appropriate to proceed in the absence of the Respondent.

### **The Case Management Discussion**

5. There were no written representations received from the Respondents.
6. Mr Caldwell advised that the rent arrears had increased since the application had been made and the sum due was now £ 2,497. He submitted a new rent statement showing that no payment towards rent had been made from March to June in addition to arrears accrued until then. He confirmed there are more than 3 months arrears due at the current time and that arrears have been due for more than 3 consecutive months.
7. The Applicant confirmed when asked, that as far as she was aware the arrears were not caused by a delay or failure in payment of any benefit. She was aware that at the start of the tenancy there had been a delay in payment of benefit but understood the Respondent received this and then spent it on items other than the rent.

### **Findings in Fact**

8. The parties entered into a lease of the Property which was dated and which commenced on 14<sup>th</sup> January 2018.
9. As a result, this is a Private Rented Tenancy despite being erroneously called a short assured tenancy.
10. The Rent due was £350 per calendar month payable in advance, although as a result of agreement between the parties the Applicant agreed to accept the rent in weekly payments of £88.
11. The Applicant produced a statement of rent showing that the current arrears including the rent due on 14<sup>th</sup> June amount to £2497, that arrears have been accruing since May 2018 with no rent at all paid since February 2019.
12. There are currently over 3 months' rent outstanding.
13. The arrears of rent are not wholly or partly due to a delay or failure in payment of a relevant benefit.
14. A notice to leave dated 11<sup>th</sup> March 2019 was served by Sheriff Officers on the Respondent on 11<sup>th</sup> March 2019 confirming that no proceedings would be raised before 11<sup>th</sup> April 2019.
15. The Notice to Leave refers to rent arrears of over 3 months as the ground of eviction.
16. S11 Notice has been served on Inverclyde Council

### **• Reasons for Decision**

17. The Tribunal was satisfied that the Respondents had been served with a valid Notice to Leave under S52 (3) of the 2016 Act specifying Ground 12 of Schedule 3 of the Act as the relevant ground of eviction.

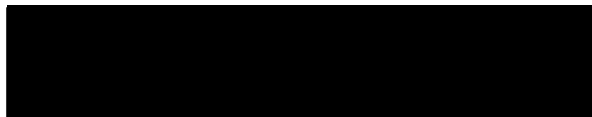
18. The Tribunal accepted the verbal averments and written statement of rent arrears from the Applicant who was credible in her evidence of the Respondents having failed to pay the full rent for many months. There being no response to counter this from the Respondents and the Tribunal being satisfied in terms of S 51 (1) of the Act that one of the eviction grounds named in Schedule 3 of the Act, namely Ground 12, is met, determined that the order for eviction sought by the Applicant should be granted.

- **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.**



**Legal Member/Chair**

**Date**

*5<sup>th</sup> July 2019*