

Housing and Property Chamber

First-tier Tribunal for Scotland



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/23/0678

Re: Property at Flat 3/1, 13 Kempock Street, Gourock, PA19 1NB (“the Property”)

Parties:

Mr Joseph White, 7 Hood Street, Greenock, PA14 5QE (“the Applicant”); and

Kilglen Property Management, 7 Hood Street, Greenock, PA14 5QE (“the Applicant’s Representative”) and

Ms Nerissa Muchina, Flat 3/1, 13 Kempock Street, Gourock, PA19 1NB (“the Respondent”); and

Legal Services Agency Ltd, 9 Sir Michael Street, Greenock, PA15 1PQ (“the Respondent’s Representative”)

Tribunal Members:

**G McWilliams- Legal Member
E Currie - Ordinary Member**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determine as follows:

Background and Case Management Discussion on 31st October 2023

1. The Application has been brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call, at 2.00pm on 31st October 2023, in respect of this Application. The Applicant’s Representative’s Ms S Hughes attended as did the

Respondent's Representative's Ms L Fidelo. The Representative's Ms F. Anderson also attended as an observer at the CMD. Reference is made to the Notes on the CMD, also dated 31st October 2023.

Evidential Hearing 6th February 2024

3. An Evidential Hearing proceeded remotely by telephone conference call at 10am on 6th February 2024. The Applicant's Representative's Ms S Hughes attended as did the Respondent's Representative's Ms L Fidelo.
4. Ms Hughes and Ms Fidelo referred to the e-mails which they have recently exchanged directly. Ms Fidelo stated that the Respondent Ms Muchina signed a tenancy agreement, in respect of new accommodation, with River Clyde Homes, on 18th January 2024. She said that Ms Muchina is presently applying for funding in order to instal flooring within the property. She stating that Ms Muchina and her teenage daughter suffer from health problems and require their new accommodation to be complete in order to move into it. Ms Fidelo said that Ms Muchina consents to the grant of an eviction order but seeks that enforcement of the order is delayed until 1st April 2024 to allow her and her daughter sufficient time to install flooring within, and to move into, their new accommodation. Ms Fidelo also stated that Ms Muchina acknowledges that there are currently rent arrears owing of £5,900.00.
5. Ms Hughes stated that the Applicant Mr White is agreeable to a delayed enforcement date, of 1st April 2024, being specified in the eviction order. Ms Hughes said that Mr White hopes to have a rent arrears repayment arrangement agreed with Ms Muchina, given that the arrears, at 17th January 2024, are now in the sum of £5,900.00. Ms Hughes stated that Mr White reserves his right to lodge a separate Application with the Tribunal to seek a formal payment order in respect of the arrears.

Findings in Fact and Law and Reasons for Decision

6. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal may issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
7. Schedule 3 (12) (A) to the 2016 Act provides that it is an eviction ground that the tenant has substantial rent arrears where the cumulative amount of the arrears equates to, or exceeds, an amount equivalent to six months' rent.
8. The Tribunal considered all of the Application papers, including the PRT, Notice to Leave and various Rent Statements lodged on behalf of Mr White, as well as the submissions of Ms Hughes and Ms Fidelo.
9. The parties are agreed that there are outstanding rent arrears of £5,900.00. They are also agreed that an eviction order should be granted with an enforcement date of no earlier than 1st April 2024.

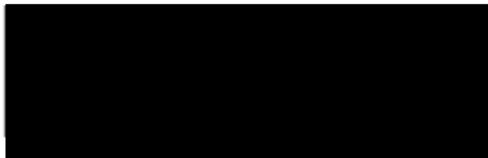
10. Having considered all of the Application papers and submissions the Tribunal find in fact that Ms Muchina owes substantial rent arrears to Mr White. Given that the parties are agreed that an eviction order should be granted the Tribunal also determined that it is reasonable that an eviction order be made. Accordingly, the Tribunal find in law that Ground 12A in Schedule 3 to the 2016 Act is met and that an eviction order should be granted.

Decision

11. The Tribunal therefore make an eviction order as sought in this Application.

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.



Tribunal Legal Member

6th February 2024

Date