

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 Reference No: FTS/HPC/EV/23/3181

Property: 8 Strathallan Crescent, Airdrie, ML6 6EP (“the Property”)

Mr Keith Greene, residing at 107 Aitchison Street, Airdrie, ML6 0DB (“the Applicant”) and

The Firm of Aberdeen Considine & Company, 5-9 Bon Accord Crescent, Aberdeen, AB11 6DN (“the Applicant’s Representative”) and

Mrs Nicola McFarlane residing at 8 Strathallan Crescent, Airdrie, ML6 6EP (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

E Shand - Ordinary Member

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines to grant an eviction order.

Background

1. This is an Application for an eviction order 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”).

Case Management Discussion on 19th January 2024 and Hearing on 14th May 2024

2. A Case Management Discussion (“CMD”) proceeded by remote teleconference call at 2.00pm on 19th January 2024 and an evidential Hearing took place, and was

adjourned, on 14th May 2024. Reference is made to the Notes on the CMD and Hearing.

Hearing 4th November 2024

3. A further Hearing proceeded by remote teleconference call at 10.00am on 4th November 2024. The Applicant, Mr K Greene, and his Representative's Mrs E Elder attended. The Respondent Mrs McFarlane did not attend and no-one attended on her behalf. There was no explanation for Mrs McFarlane's absence. The Tribunal had noted that neither Mrs McFarlane, nor anyone representing her, had been in contact with the Tribunal's office following the Hearing on 14th May 2024. The Tribunal also noted that Mrs McFarlane had not submitted the documentation referred to at the CMD and previous Hearing. The Tribunal further noted that their office had send a recorded delivery letter to Mrs McFarlane at the Property, intimating details of the Hearing on 4th November 2024, on 7th October 2024 and this was delivered, and signed for by Mrs McFarlane, on 9th October 2024.
4. Mrs Elder referred to the Rent Statement that she had recently submitted to the Tribunal's office. She said that a direct monthly rent payment to Mr Greene, through Mrs McFarlane's award of Universal Credit ("UC"), was last made in May 2024 and that there are now rent arrears of £8926.30. Mr Greene stated that he understood that Mrs McFarlane is still resident at the Property but that her children may now be living with a grandparent. He said that he had not attempted to access the Property as Mrs McFarlane had called for police assistance when his elderly mother had tried to speak to her at the Property in the early part of 2024. He said that Mrs McFarlane used to be engaged as a dog walker by his mother. Mr Greene stated that he has a mortgage in respect of the Property and that, given the level of rent arrears, he is now suffering financial difficulty. Mrs Elder and Mr Greene both stated that an eviction order was sought so that Mr Greene can arrange to re-let the Property, and be paid rent, as soon as possible

Findings in Fact and Law and Reasons for Decisions

5. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to 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.
6. Schedule 3 (12) (1) of the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
7. The Tribunal considered all of the Application papers, including the PRT, Notice to Leave and Rent Statements lodged by Mrs Elder, as well as the evidence and submission of Mr Greene and Mrs Elder.
8. Mrs McFarlane had not lodged representations or documentation' with the Tribunal's office regarding the eviction ground and the reasonableness of the grant of an eviction order. She had not attended the Hearing on 4th November 2024 to

provide any evidence, and/or make any submission, to oppose, and contradict the basis for the order sought by Mr Greene.

9. Having considered all of the evidence and submissions, the Tribunal finds in fact that Mrs McFarlane had been in rent arrears for three or more consecutive months at the date of the Application and is in arrears of £8926.30 at the present date. The Tribunal finds in law that the ground in Schedule 3 (12) (1) of the 2016 Act is met and determines that it is reasonable that an eviction order be granted.

Decision

10. The Tribunal therefore makes an eviction order as sought in this Application.

11. Therefore, the Tribunal makes an order for eviction of the Respondent, Mrs Nicola McFarlane, from the Property.

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.

**G McWilliams
Legal Member**

**4th November 2024
Date**