

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**Decisions with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 51 and 71 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/24/3300 and FTS/HPC/CV/24/3409**

**Re: Property at 2C Tiree Place, Stevenston, KA20 3DH (“the Property”)**

**Parties:**

**Mrs Linda Monan, 23 Hawkhill Drive, Stevenston, KA20 3DF (“the Applicant”)  
and**

**Rentolease Property Management Ltd, 52 Templehill, Troon, KA10 6BE (“the Applicant’s Representative”) and**

**Ms Gillian Wylie, 2C Tiree Place, Stevenston, KA20 3DH (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member  
E. Munroe - Ordinary Member**

**Decisions in absence of the Respondent**

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

- 1) To grant an eviction order; and**
- 2) To grant an order for payment to the Applicant, Mrs Linda Monan, by the Respondent, Ms Gillian Wylie, of the sum of £4,100.00.**

**Background**

1. These are Applications for an eviction order in terms of Rule 109 (Application for an eviction order) and for a payment order in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier

Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

### **Case Management Discussion on 14<sup>th</sup> January 2025**

2. A Case Management Discussion (“CMD”) proceeded by remote teleconference call at 10.00am on 14<sup>th</sup> January 2025.
3. The Applicant, Mrs Monan, her husband Mr Monan, and their Representative’s Mr C. Scott attended. The Respondent Ms Wylie did not attend and there was no explanation for her absence. The Tribunal had noted that Sheriff Officers had served the Applications’ papers on Ms Wylie on 26<sup>th</sup> November 2024 by posting them through the letterbox of the Property.
4. Mr Scott referred to the Applications and the Rent Statements which he had sent to the Tribunal’s office. He said that Ms Wylie last paid rent in March 2024 and that there were rent arrears of £6,300.00 at 26<sup>th</sup> December 2024. He said that until December 2023 rent had been up to date with the exception of one month. He stated that he understood that Ms Wylie had a partner residing with her in the Property who left around December 2023. Mr Scott stated that he has had difficulties communicating with Ms Wylie but, having driven past the Property earlier this week, he is aware that she remains resident in the Property with her two school age children. He further stated that he understands that Ms Wylie works in her family’s cleaning business, as a commercial vehicle is parked outside the Property in the evenings. He said that he is not aware of Ms Wylie or her children having any health difficulties. Mr Scott stated that he had tried to discuss arrangements for payment of rent with Ms Wylie but had been unsuccessful. He said that Ms Wylie had previously told him that her father may arrange fresh accommodation for her and her children and that she had also been in touch with North Ayrshire Council in this regard. Mrs Monan said that the Property was formerly her grandmother’s home and that she, nor her husband, rent any other properties. She said that there is no mortgage in respect of the Property. Mr Scott submitted that, given all the circumstances which had been outlined, it was appropriate to have both the eviction order and payment order granted. He acknowledged that as the most recent Rent Statement, showing the current arrears of £6,300.00, had only been sent to the Tribunal’s office on 7<sup>th</sup> January 2025, any order for payment granted would be in the original amount sought of £4,100.00. Mr Scott said that in the event of an order for payment being granted now Mrs Monan may seek a further order for payment of the balance of rent arrears due at a later date.

### **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 (“PRT”) if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.

6. Schedule 3 (12) (1) to 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. Section 71 of the 2016 Act provides as follows:
  - (1) In relation to civil proceedings arising from a private residential tenancy-
    - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
    - (b) a sheriff does not have competence or jurisdiction.
  - (2) For the purposes of subsection (1), civil proceedings are any proceedings other than-
    - (a) the prosecution of a criminal offence,
    - (b) any proceedings related to such a prosecution.
8. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for an eviction order and order for payment of unpaid rent against a tenant (such as the Respondent) in respect of a tenancy such as the tenancy agreement of the parties.
9. Having considered all of the documentary evidence, representations and the submission of Mr Scott, the Tribunal finds in fact that the Applicant Mrs Monan has provided the Tribunal, in her Application for an eviction order, with copies of the parties' PRT, the Notice to Leave ("NTL") served on Ms Wylie on 10<sup>th</sup> May 2024 and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice subsequently intimated to North Ayrshire Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The NTL, and the Application for an eviction order, proceed in terms of Schedule 3 (1) in the 2016 Act. The Tribunal further finds in fact that when both Applications were lodged with the Tribunal's office, in August 2024, Ms Wylie was in rent arrears of £4,100.00. She has not paid any rent to the Applicant since March 2024 and is currently in rent arrears in the sum of £6,300.00.
10. In making its findings in fact the Tribunal relied on the documentation within the Applications and, in particular, on the oral submission of Mr Scott, the terms of which were consistent with the terms of the relevant documentation.
11. The Tribunal, in making their findings in fact, also placed reliance on the absence of any contradictory information or submissions from the Respondent Ms Wylie. The papers in respect of both Applications had been served effectively on her on 26<sup>th</sup> November 2024. She is aware of the important nature of the Applications but has not lodged any representations regarding their merits and the reasonableness of the grant of the orders sought. The Tribunal's office has not received any communications from Ms Wylie or any representatives or advisers acting on her behalf.

12. Accordingly, the Tribunal find in law that the ground in Schedule 3 (1) of the 2016 Act is met as the Respondent Ms Wylie has been in rent arrears for three or more consecutive months and that it is reasonable that an eviction order be granted. The Tribunal also find in law that the Respondent is obliged to pay rent to the Applicants, in terms of the parties PRT, and, having not done so consistently, was in rent arrears in the sum of £4,100.00 when the Application for an order for payment was submitted. The Tribunal therefore find that the Applicant, Mrs Monan, is entitled to an order for the Respondent Ms Wylie's payment to her of the sum of £4,100.00. Mrs Monan may submit a fresh Application to the Tribunal for a further payment order in respect of other rent arrears owing.

### **Decisions**

13. Therefore, the Tribunal makes an order for eviction of the Respondent, Ms Gillian Wylie, from the Property at 2C Tiree Place, Stevenston, K20 3DH and, also, an order for payment to the Applicant, Mrs Linda Monan, by the Respondent, Ms Gillian Wylie, of the sum of £4,100.00.

### **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

14<sup>th</sup> January 2025

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