

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 Sections 51 and 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Reference No: FTS/HPC/EV/24/1373

Property: 25 Weighhouse Close, Paisley, PA1 1AG (“the Property”)

Mrs Elizabeth Kell and Dr. Philip Kell, 31 Oyster Bend, Paignton, TQ4 6NL (“the Applicants”) and

Jackson Boyd LLP, Framework, 124 St. Vincent Street, Glasgow, G2 5HF (“the Applicants’ Representative”) and

Dhikrullah Alasela, 25 Weighhouse Close, Paisley, PA1 1AG (“the First Respondent”) and

Fatia Adebayo Ariyike, 25 Weighhouse Close, Paisley, PA1 1AG (“the Second Respondent”)

Tribunal Members:

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

Decision in absence of the Respondents:

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 Discussions on 3rd December 2024 and 27th February 2025

2. A Case Management Discussion (“CMD”) proceeded by remote teleconference call at 10am on 3rd December 2024. Reference is made to the Notes on that CMD.

3. A further CMD proceeded by remote teleconference call at 10am on 27th February 2025. The Applicants' Representative's Ms G White attended. The Respondents did not attend and were not represented. There was no explanation for their absence. The Tribunal noted that details of the CMD had been intimated to the First Respondent Dhikrullah Alasela by email and to the Second Respondent Fatia Adebayo Ariyike by recorded delivery post on 24th January 2025.
4. Ms White referred to the Application, the Notes on the previous CMD and the most recent Rent Schedule, which she sent to the Tribunal's office by email on 13th February 2025. She said that the Respondents had not made any rent payments, and had not replied to the Applicants' Letting Agents' communications regarding rent arrears, since the last CMD. Ms White stated that the current outstanding rent arrears are in the sum of £8200.00. She said that the Letting Agents had inspected the Property within the last few weeks and the Respondents and their two children remain resident there. Ms White submitted that, given the circumstances she had outlined at the CMD's, it was appropriate to have both the eviction order and payment order granted.

Findings in Fact and Law and Reasons for Decision

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 a tenant has been in rent arrears for three or more consecutive months.
7. Therefore, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicants) for an eviction order against tenants (such as the Respondents) in respect of a tenancy such as the tenancy agreement of the parties.
8. Having considered all of the documentary evidence, representations and the submission of Ms White, the Tribunal finds in fact that the Applicants have provided the Tribunal, in their Application for an eviction order, with copies of the parties' PRT, the Notice to Leave ("NTL") served on the Respondents on 26th January 2024 and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Renfrewshire Council on 20th March 2024. 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 (12) in the 2016 Act. The Tribunal further finds in fact that when the Application was lodged with the Tribunal's office, on 22nd March 2024, the Respondents were in rent arrears of £3050.00. They made three payments of rent, in February, May and September 2024 and have not paid any rent to the Applicants since. At the CMD on 3rd December 2024 the First Respondent Mr Alasela undertook to recommence rent payments in December 2024 but the Respondents have not done so. The current rent arrears are in the sum of £8200.00. The Respondents and their children remain resident in the Property.

9. In making its findings in fact the Tribunal relied on the documentation within the Application and, in particular, the oral submissions of Ms White, the terms of which were consistent with the terms of the relevant documentation.
10. The Tribunal, in making their findings in fact, also placed reliance on the absence of any contradictory information or submissions from the Respondents. Details of the CMD on 27th February 2025 had been intimated to both Respondents. They are aware of the important nature of the Application but, following the CMD on 3rd December 2025, they have not made any representations regarding the merits and the reasonableness of the grant of the order sought. The Tribunal's office has not received any communications from the Respondents or any representatives or advisers acting on their behalf following that CMD.
11. Accordingly, the Tribunal finds in law that the ground in Schedule 3 (12) of the 2016 Act is met as the Respondents have been in rent arrears for three or more consecutive months and that it is reasonable that an eviction order be granted.

Decision

12. Therefore, the Tribunal makes an order for eviction of the First Respondent Dhikrullah Alasela and the Second Respondent Fatia Adebayo Ariyike from the Property at 25 Weighhouse Close, Paisley, PA1 1AG.

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

G McWilliams

27th February 2025
