

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

**Chamber Reference No: FTS/HPC/EV/24/3471**

**Property: 19 Blackwood Avenue, Catrine, KA5 6NU (“the Property”)**

**Mulhern Investments Ltd, 58 Tantallon Drive, Paisley, PA2 9HS (“the Applicant”) and**

**Ms Claire Lyle, 19 Blackwood Avenue, Catrine, KA5 6NU (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**G Darroch - 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**

2. A Case Management Discussion (“CMD”) proceeded by remote teleconference call at 2pm on 15<sup>th</sup> April 2025. The Applicant’s director Mrs V Mulhern attended. The Respondent did not attend and was not represented. There was no explanation for her absence. The Tribunal noted that the Application case papers, and details of the CMD, had been intimated to Ms Lyle by Sheriff Officers on 12<sup>th</sup> March 2025.
3. Mrs Mulhern referred to the Application case papers, in particular the Rent Statements which had been submitted. The Application papers were lodged with the Tribunal on 28<sup>th</sup> July 2024, when Ms Lyle’s arrears of rent were in the sum of £850.32. Mrs Mulhern stated that after rent was paid through East Ayrshire Council in August and September, and partially, in October 2024, no further rent payments

had been made either by or on behalf of Ms Lyle. She said that the outstanding arrears of rent are now in the sum of £3,882.00. Mrs Mulhern stated that she last received a communication from Ms Lyle on 30<sup>th</sup> December 2024 when Ms Lyle sent an e-mail stating that her mother had passed away and that she was not at work and didn't have any wages but would apply for a loan to pay rent. Mrs Mulhern said that she did not hear further from Ms Lyle and no other rent payments have been made. She stated that she and her husband, the directors of the Applicant company, Mulhern Investments Ltd, had not pressed Ms Lyle given her personal circumstances and as they considered that she would not be able to repay the outstanding rent owing. Mrs Mulhern said she understood from previous communications with Ms Lyle that Ms Lyle had spoken to East Ayrshire Council regarding obtaining another tenancy from them. Mrs Mulhern said that she understands that Ms Lyle lives alone at the Property. She referred to an e-mail from Ms Lyle, within the Application papers, in which Ms Lyle stated that she had some addiction issues. Mrs Mulhern said that she was not aware as to whether or not Ms Lyle had any diagnosed medical conditions. Mrs Mulhern acknowledged that Ms Lyle has had difficulties in her life recently. She said that she knew that Ms Lyle had moved from England to take up the tenancy of the Property in April 2023 so as to be near to her mother who has now sadly passed away. Mrs Mulhern submitted that she considered it best all round that Ms Lyle's tenancy is brought to an end so that Ms Lyle can look to obtain another affordable tenancy, possibly from East Ayrshire Council.

### **Findings in Fact and Law and Reasons for Decision**

4. 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.
5. 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.
6. Therefore, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for an eviction order against tenants (such as the Respondent) in respect of a tenancy such as the tenancy agreement of the parties.
7. Having considered all of the documentary evidence, representations and the submission of Mrs Mulhern, the Tribunal finds in fact that the Applicant company Mulhern Investments Ltd has provided the Tribunal, in their Application for an eviction order, with copies of the parties' PRT, the Notice to Leave ("NTL") served on Ms Lyle on 27<sup>th</sup> June 2024 and the Section 11 (Homelessness etc. (Scotland) Act 2003) Notice intimated to East Ayrshire Council on 26<sup>th</sup> June 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, in July 2024, the Ms Lyle was in rent arrears of £850.32. She has not paid any rent

to the Applicant company since October 2024. The current rent arrears are in the sum of £3,882.00. The Respondent remains resident in the Property.

8. In making its findings in fact the Tribunal relied on the documentation within the Application and, in particular, the oral submission of Mrs Mulhern, the terms of which were consistent with the terms of the relevant documentation.
9. The Tribunal, in making their findings in fact, also placed reliance on the absence of any contradictory information or submissions from Ms Lyle. The Application case papers and details of the CMD had been intimated to her by Sheriff Officers on 12<sup>th</sup> March 2025. She is aware of the important nature of the Application but she has not attended at the CMD and has not made any oral or written representations regarding the merits and the reasonableness of the grant of the eviction order sought.
10. Accordingly, the Tribunal finds in law that the ground in Schedule 3 (12) of the 2016 Act is met as Ms Lyle has been in rent arrears for three or more consecutive months and that it is reasonable that an eviction order be granted.

### **Decision**

11. Therefore, the Tribunal makes an order for eviction of the Respondent Ms Claire Lyle from the Property at 19 Blackwood Avenue, Catrine. KA5 6NU.

### **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**

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**15<sup>th</sup> April 2025**

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