

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/24/2922

Property: 4C East Brae, East Wemyss, Fife, KY1 4RS (“the Property”)

Parties:

Mr Stephen White and Mrs Deborah White, both residing at Pine Cottage, Monument Park, Strontian, PH26 4HZ (“the Applicants”) and

Kilpatrick & Walker Solicitors 4 Wellington Square, Ayr, KA7 1EN (“the Applicants’ Representative”) and

Ms Lynsey Craig, 4C East Brae, East Wemyss, Fife, KY1 4RS (“the Respondent”)

Tribunal Members:

**G McWilliams- Legal Member
A Khan - Ordinary Member**

Decision:

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 10am on 29th April 2025. One of the Applicants, Mr S White, their Representative’s Mr K Walker and the Respondent, Ms L Craig, attended.
3. Mr White stated that Ms Craig has been in arrears of rent for over three consecutive months and that he and his wife will not seek payment of any arrears as their

principal wish is to recover possession of the Property. He said that they understand that the Property is no longer affordable for Ms Craig and that they want her, and her daughter, who is six years old, to be able to move on and obtain an affordable tenancy and not be burdened with rent arrears. Mr White said that he and his wife will have to sell the Property to pay off debts.

4. Ms Craig stated that she is in rent arrears, her tenancy of the Property is no longer affordable and that she has applied to Fife Council for a tenancy. Ms Craig expressed her thanks to Mr White for his, and his wife's, understanding of her circumstances. She agreed with Mr White's statement that it is best that an eviction order be granted to bring the tenancy to an end, in particular so that no further rent arrears accrue, and all parties can move on.
5. Mr Walker submitted that, in the circumstances, it is appropriate and reasonable for an eviction order to be granted.

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 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.
7. 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.
8. Therefore, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicants) for an eviction order against tenants (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 statements and submissions of Mr White, Ms Craig and Mr Walker the Tribunal finds in fact that the Applicants, Mr and Mrs White, through their Representative, have provided the Tribunal, in their Application for an eviction order, with copies of the parties' PRT, the Notice to Leave ("NTL") served on Ms Craig and the Section 11 (Homelessness etc. (Scotland) Act 2003) Notice intimated to Fife 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 (12) in the 2016 Act. The Tribunal further finds in fact that when the Application was lodged with the Tribunal's office, in September 2024, and at today's date, Ms Craig was, and has been, in rent arrears for three or more consecutive months. The Tribunal also found that Mr and Mrs White will not seek payment from Ms Craig in respect of rent arrears and that it is in the best interests of Ms Craig, her daughter and Mr and Mrs White that an eviction order be granted and their PRT brought to an end.
10. Accordingly, the Tribunal finds in law that the ground in Schedule 3 (12) of the 2016 Act is met as Ms Craig has been in rent arrears for three or more consecutive

months. Given the candid statements of the parties at today's CMD the Tribunal also finds in law that it is reasonable that an eviction order be granted.

Decision

11. Therefore, the Tribunal makes an order for eviction of the Respondent Ms Lynsey Craig from the Property at 4C East Brae, East Wemyss, Fife, KY1 4RS.

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

29th April 2025

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