



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/25/4229**

**Re: Property at 2 Burnside Close, Cumnock, KA18 1FR (“the Property”)**

**Parties:**

**Mrs Mia Zhang, Yibolun Zhang, Flat 6, 93 Lumley Road, Skegness, PE25 3LS (“the Applicant”)**

**Miss Vanesa Musule, Mr Andrew Dignan, 2 Burnside Close, Cumnock, KA18 1FR; 2/1 8 Millview Crescent, Johnstone, PA5 8QA (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction. The Tribunal determined that it was reasonable to suspend enforcement of the eviction order until 24 May 2026.**

**Background**

1. By application dated 2 October 2025 the applicant seeks an order for eviction, relying on ground 12 (rent arrears for three or more consecutive months) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The application was conjoined with application reference FTS/HPC/EV/25/2312 in terms of which the applicant sought an order for eviction relying on ground 5 (breach of tenancy agreement).

2. The applicant lodged the following documents in advance of the case management discussion (“cmd”):
  - Copy tenancy agreement
  - Notices to leave with proof of service
  - Section 11 notice to local authority
  - Rent invoice
  - Pre Action Requirement correspondence
3. Both respondents submitted written representations in advance of the cmd. Mr Dignan submitted proof of payments towards the outstanding arrears and evidence of a new tenancy agreement.

**Case management discussion – 24 March 2026- teleconference.**

4. The applicant was represented by Mr Dickson, Oakhouse Premier Sales & Lets Ltd. Both respondents attended on their own behalf.
5. Mr Dickson sought an order for eviction. Mr Dignan confirmed that he had moved out of the property following relationship breakdown shortly after the tenancy commenced in April 2025. Ms Musule stated that she did not oppose an order for eviction but sought an extension to the period before enforcement in order to allow her time to obtain alternative accommodation.
6. Ms Musule stated that she is 21 years old. She resides with her young child who is under 1 years old. She stated that she had struggled since the tenancy commenced as there had been complications in relation to her pregnancy. She had also lacked support in the area after her relationship with Mr Dignan ended. Ms Musule stated that she has applied for accommodation from the local authority in Liverpool. As a care leaver she has been awarded additional housing priority. She stated that she required to make a payment on 18 April 2026 to the housing provided and thereafter would be allowed to bid for properties.

7. Ms Musule stated that she was unable to afford the full monthly rent of £1100. She stated that she was receiving universal credit with some housing costs included. She stated that she had been paying £150 per month towards the rent account.
8. Mr Dignan opposed any extension to the enforcement of the eviction order. He stated that he was jointly liable for the rent charge and therefore any increase in arrears if enforcement was suspended. He stated that he had been paying £500 per month towards the arrears.
9. Mr Dickson stated that he did not think the applicant would oppose suspension for a period of time. He stated that the applicant had been very understanding of the respondent's circumstances. He stated that an updated rent statement had not been provided in advance of the cmd however he estimated that arrears at present amounted to £11,100.

#### **Findings in fact and law**

10. Parties entered into a tenancy agreement with a commencement date of 1 April 2025.
11. Monthly rent due in terms of the agreement is £1,100.
12. The respondents have been in arrears of rent continuously since May 2025.
13. The applicant complied with the pre-action requirements set out in the Rent Arrears Pre Action-Requirements (Coronavirus) (Scotland) Regulations 2020.
14. A valid notice to leave was served on both respondents on 26 August 2025.
15. Ground 12, in schedule 3 of the 2016 Act has been established.
16. Ms Musule resides in the property with her young child.
17. Mr Dignan moved out of the property shortly after the tenancy commenced due to relationship breakdown.

18. The respondents do not oppose an order for eviction being granted.
19. Mr Dignan has entered into a tenancy agreement at an alternative address.
20. Ms Musule has applied for local authority accommodation in Liverpool.
21. Ms Musule receives support and housing priority as a care leaver.

### **Reasons for the decision**

22. Rule 17 (4) states:

*The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.*

23. Rule 18 states:

*Power to determine the proceedings without a hearing*

**18.—(1) Subject to paragraph (2), the First-tier Tribunal—**

*(a) may make a decision without a hearing if the First-tier Tribunal considers that—*

*(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and*

*(ii) to do so will not be contrary to the interests of the parties; and*

*(b) must make a decision without a hearing where the decision relates to—*

*(i) correcting; or*

*(ii) reviewing on a point of law,*

*a decision made by the First-tier Tribunal.*

*(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.*

24. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

25. Ground 12 states:

*12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*

(2).....

(3) *The First-tier Tribunal may find that the ground named by sub-paragraph*

*(1) applies if—*

*(a) for three or more consecutive months the tenant has been in arrears of rent, and*

*(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.*

*(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider—*

*(a) whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit and*

*(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.*

26. The Tribunal was satisfied on the basis of the parties' submissions that the respondent had been in arrears of rent for a period in excess of three months.

27. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against.

28. The Tribunal determined that given the lack of opposition from both respondents to the application that it was reasonable to grant an order for eviction.

29. In relation to Ms Musule's request to suspend enforcement of the order for a period to allow her to obtain alternative accommodation, the Tribunal took into account that she did not specify a period sought. The Tribunal took into account that Ms Musule was a young care leaver with a child under 1. She had

considerable vulnerabilities. The Tribunal considered that it was reasonable to allow a suspension of 2 months to ensure that she had access to local authority accommodation and support in Liverpool. The Tribunal took into account the lack of opposition from the applicant's representative. The Tribunal noted that it was likely that some arrears would continue to amass which would impact Mr Dignan however on balance considered that a short suspension was appropriate.

### **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.**

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**Legal Member/Chair**  
Mary-Claire Kelly

**24 March 2026** \_\_\_\_\_  
**Date**