

**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 Section 51 (1) of the Private Housing (Tenancies) Act 2016 and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

**Chamber Ref: FTS/HPC/EV/19/4110**

**Re: Property at 52C Elizabeth Avenue, Kirn, Dunoon, PA23 8JD (“the Property”)**

**Parties:**

**Mrs Sandra Webster, The Watermill, Glendaruel, PA22 3AB (“the Applicant”)**

**Mr Piotr Maciej Szuca, 52C Elizabeth Avenue, Kirn, Dunoon, PA23 8JD (“the Respondent”)**

**Tribunal Members:**

**Martin McAllister (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in respect of the Property.**

**Background**

**This is an application for possession of the Property. The Applicant and the Respondent are parties to a private rented tenancy which commenced on 17<sup>th</sup> March 2018. The application is dated 23<sup>rd</sup> December 2019.**

**The application was intimated to the Respondent who has made no written representations. A case management discussion was fixed for 25<sup>th</sup> February 2020.**

**Case Management Discussion**

**The applicant was present and was represented by Mr Lorenzo Ranalli, solicitor. There was no appearance from the Respondent. The purpose of a case management discussion was explained.**

## **Findings in Fact**

- 1. The parties entered into a private residential tenancy agreement and the tenancy was constituted from 17<sup>th</sup> March 2018.**
- 2. The monthly rent due contractually is £350 per month.**
- 3. There are rent arrears of £4,950.**
- 4. There is no evidence that non -payment of rent is due to any issue the Respondent may have in relation to payment of benefits.**
- 5. A Notice to Leave was served on the Respondent on 12<sup>th</sup> November 2019.**
- 6. The Applicant has given intimation to the local authority of her intention to evict the Respondent.**

## **Reasons**

**The tribunal had the following documents before it:**

- (a) The application dated 23<sup>rd</sup> December 2019.**
  - (b) Copy private residential tenancy agreement.**
  - (c) Copy Notice to Leave served on Respondent on 12<sup>th</sup> November 2019 together with Certificate of posting.**
  - (d) Copy intimation to local authority of intention to evict Respondent together with proof of delivery.**
  - (e) Rent statement lodged with application showing arrears to be £3,750.**
- 7. Mr Ranalli said that the arrears of rent are now £4,950 and that the Respondent has been in arrears since July 2015. This was confirmed by Mrs Webster who said that, as far as she was aware, non- payment of rent was not due to the Respondent having any issues with payment of benefits.**
  - 8. Mr Ranalli said that, since the rent was at least three months in arrears, it was appropriate for the Applicant to obtain possession of the Property. He said that he saw no need for a Hearing.**
  - 9. The law:  
The Private Housing (Tenancies) (Scotland) Act 2016:**

### ***S.51(1)***

***The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 applies.***

### ***Schedule 3, Ground 12***

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

10. The rent statement lodged with the tribunal shows rent arrears of £3,750 which is far in excess of three months. The tribunal accepted the oral statement of the Applicant that the rent arrears are now £4,950.
11. The tribunal noted that the Notice to Leave had a notice period of twenty eight days.
12. The Respondent had an opportunity to make written representations and has chosen not to do so or appear at the case management discussion. There was no evidence before the tribunal that the rent arrears were caused in whole or in part by any issue with regard to payment of benefits.
13. The tribunal was satisfied that intimation of the case management discussion had been made on the Respondent and that there was no requirement for a Hearing to be arranged.
14. The tribunal accepted that there were rent arrears in excess of three months and that it was appropriate to grant the order sought.

### **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an eviction order be granted in respect of the Property.

### **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.

**Martin J. McAllister, Legal Member**

**25<sup>th</sup> February 2020**