

**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 under Section 51 of the  
Private Housing Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/19/0172**

**Re: Property at Flat 4, 16 Templehill, Troon, KA10 6BE ("the Property")**

**Parties:**

**McLennan Adam LTD, 13 Alloway Place, Ayr, KA7 2AA ("the Applicant")  
(represented by Lomond Estate Agents Ltd)**

**Miss Ellie Fergusson, Flat 4, 16 Templehill, Troon, KA10 6BE ("the  
Respondent")**

**Tribunal Member:**

**Martin McAllister (Legal Member)**

**Background**

**This is an application for an order of eviction. The Application dated 15<sup>th</sup>  
January 2019 sought an order for £1,711.**

**On 26<sup>th</sup> March 2019 the Applicant's agents sent an email to the Tribunal  
attaching a statement showing the rent due to be £3061. The ground on which  
recovery of the Property is sought is Ground 12 of Part 3, Schedule 3 of the  
Private Housing (Tenancies) (Scotland) Act 2016:**

**That the Respondent has been in rent arrears for three or more consecutive  
months and at the beginning of the day on which the Tribunal first considers  
the application for an eviction order on its merits, the Respondent is in Arrears  
of rent by an amount equal to or greater than the amount which would be  
payable as one month's rent under the tenancy on that day, and has been in  
arrears of rent ( by any amount) for a continuous period, up to and including  
that day, of three or more consecutive months.**

**Attendance**

**Mr Stephen Spence, a Director of Lomond Estate Agents Ltd was present and  
represented the Applicant. There was no appearance from the Respondent.**

## **Preliminary Matters**

**Mr Spence produced an email from the Respondent stating that it was unlikely that she would attend the case management discussion. Mr Spence lodged an updated rent statement showing that the monthly rent of £450 had not been paid since September 2018 and that the arrears of rent amounted to £3061.**

## **Service of intimation of case management discussion**

**It was noted that the required service had been made on the Respondent and a copy of the Sheriff Officers' Certificate of Execution of Service dated 13 March 2019 was before the Tribunal.**

## **Representations**

**The Respondent had made no written representations.**

## **Documents before Tribunal**

- **Private Residential Tenancy Agreement dated 25<sup>th</sup> April 2018.**
- **Rent Statement to 25<sup>th</sup> March 2019.**
- **Sheriff Officers' Certificate of Execution of Service dated 13<sup>th</sup> March 2019.**

## **Findings in Fact**

1. **The Respondent is party to a Private Residential Tenancy Agreement in respect of the Property dated 25<sup>th</sup> April 2018.**
2. **The monthly rent due by the Respondent is £450.**
3. **As at 3<sup>rd</sup> April 2019 there are rent arrears of £3061.**
4. **As at 3<sup>rd</sup> April 2019 the Respondent is in arrears of more than £450 and has been in arrears of rent for a continuous period, up to, and including 3<sup>rd</sup> April 2019, of three or more consecutive months.**
5. **The non payment of rent is not wholly or partly as a consequence of a delay or failure in the payment of a relevant benefit.**

## **Reasons for Decision**

**I found Mr Spence to be credible and accepted the terms of the rent statement lodged which showed that the Respondent last paid rent on 24<sup>th</sup> September 2018. Mr Spence said that he never had any indication from the Respondent that the non payment of rent was due to any difficulties the Respondent had with payment of any benefit. He said that the Respondent had told him that health problems were preventing her paying rent.**

**I saw no reason not to make the order and for there to be a necessity for a Hearing to be fixed.**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order of eviction should 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 McAllister**

3 April 2019  
Date