

**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 Section 52(1) of the Private Housing (Tenancies)(Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/19/0088**

**Re: Property at Flat 0/1, 2 Gillburn Road, Kilmacolm, PA13 4AN (“the Property”)**

**Parties:**

**Mr Scott Isaksen, 42 Churchill Road, Kilmacolm, PA13 4NZ (“the Applicant”)**

**Ms Claire Mulhern, Flat 0/1, 2 Gillburn Road, Kilmacolm, PA13 4AN (“the Respondent”)**

**Tribunal Members:**

**Colin Dunipace (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order should be made in terms of section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Background**

This matter concerns an Application for eviction in terms of section 51(1) of the aforementioned Act in respect of the subject property. The Application was lodged by Messrs Kingsley Wood & Co on behalf of the Applicant on 16 January 2019. With the Application was also lodged a copy of the tenancy agreement; Notice to Leave; and Sheriff Officer’s execution of service. The representatives also subsequently submitted a copy of the notice to the local authority under section 56(1) of the 2016 Act on 22 January 2019.

The matter called before me as a Case Management Discussion in Glasgow Tribunals Centre, Glasgow on 18 April 2019. The Applicant was not present but was represented at this Discussion by Ms Hunter of Messrs Kingsley Wood Solicitors. The Respondent was neither present nor represented. Given that an execution of service had been provided by Kirk & Co Sheriff Officers indicating that lawful service

had been effected on 27 March 2019, I was satisfied that intimation of the Discussion had properly been sent by the Tribunal to the Respondents and accordingly I was satisfied that Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 had been complied with, thereafter determining that the Discussion might proceed in her absence in terms of Rule 29 of the aforementioned Regulations.

### **Case Management Discussion**

At the Case Management Discussion Ms Hunter moved that the Order as sought should be granted. Ms Hunter referred to the terms of the original Application and produced a rent statement showing that whilst payments of rent had been made by the respondent on between January and April 2018, that no further payments had been made by the Respondent since that date, and that the total arrears were in excess of £4,550. Ms Hunter advised that the Applicant had taken steps to try and discuss the question of arrears with the Respondent but that she had failed to respond to any such attempts. Ms Hunter also advised that there was no indication that the Respondent had been in receipt of Universal Credit or that there were any issues in relation to benefits. Given the level of arrears Ms Hunter sought that the Order be made in terms of Ground 12(1) of Schedule 3 of the aforementioned Act.

### **Findings in Fact**

1. The parties entered into a Private Residential Tenancy on 12 January 2018. The original Tenancy was due to expire on 12 July 2018. In terms of this rental agreement the amount of rent due was £450 per calendar month.
2. Notice to Leave was served on the Respondents by Sheriff Officers on 2 November 2018.
3. That the Respondents did not maintain payments of rent due in respect of this tenancy agreement and that the arrears now due are in excess of £4,500.

### **Statement of Reasons**

The Applicant's representative produced a rent arrears statement to the Tribunal on 15 April 2019 showing the extent of the outstanding arrears. These arrears are in excess of three months rental in relation to the property.

In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal is to issue an Order against the Respondent if it finds that one of the grounds mentioned in Schedule 3 have been established. Ground 12(1) is a mandatory Ground of said Schedule which provides that an Order should be made if the tenant has been in rent arrears for three or more consecutive months. I am satisfied that this applies in the present case, and that given that the Applicant has established this Ground, that he is entitled to the Order as sought.

For these reasons I am satisfied that the Order sought should be granted.

### 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.

**C Dunipace**

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Legal Member/Chair

15/4/14  
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Date