



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71 Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/21/1910

Re: Property at flat 0/2 14 Dunphail Drive, Glasgow, G34 0DA (“the Property”)

Parties:

**C.S.R. Properties Limited, 24 Buttercup Cres, Ferniegair, Hamilton, ML3 7ZG
 (“the Applicant”)**

**Mr John McCluskey, Ms Irene McCluskey Nee-aka Carruthers, flat 0/2 14
Dunphail Drive, Glasgow, G34 0DA (“the Respondents”)**

Tribunal Members:

Josephine Bonnar (Legal Member)

Decision (in absence of the Applicant and Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be dismissed.**

Background

1. By application dated 9 August 2021, the Applicant seeks a payment order in relation to arrears of rent. A copy private residential tenancy agreement and rent statement were lodged in support of the application.
2. A copy of the application was served on the Respondents by Sheriff Officer on 6 September 2021. Both parties were advised that a case management discussion (“CMD”) would take place by telephone conference call on 5 October 2021 at 10am and that they were required to participate. They were provided with the telephone number and passcode.
3. The CMD took place on 5 October 2021. Neither party participated. As a result, the Legal Member was unable to discuss the application with them, establish whether the sums claimed in the application were still outstanding or whether

the Applicant still sought a payment order. In the circumstances, the Legal Member determined that the CMD should be continued to a later date. In the Note issued following the CMD the Legal Member stated that the Applicant should confirm whether the application was to proceed or be withdrawn. On 8 October 2021, the parties were notified that a CMD would take place by telephone conference call on 16 November 2021 at 10am. They were provided with a telephone number and passcode and advised that they were required to participate. Neither party lodged any written representations, and the Applicant did not advise the Tribunal whether the application was to proceed or be withdrawn.

4. The CMD took place by telephone conference call on 16 November 2021 at 10am. Neither party participated. There was no contact from either party prior to the CMD.

Case Management Discussion

5. As neither party participated, the Legal Member was unable to discuss the application with them.

Reasons for Decision

6. The application was lodged on 9 August 2021 with a copy of a private residential tenancy agreement and rent statement. The application states that the Respondents, the current tenants of the property, have incurred rent arrears of £4820. No further information has been provided by either party and neither have participated in the CMDs which took place on 5 October and 16 November 2021. Following the CMD on 5 October 2021, the Legal Member issued a Note to both parties which explained that a decision could not be made on the application without further information being provided about the current level of arrears, if any, or confirmation that a payment order was still required. The Applicant was also notified that they should confirm if the application was still to proceed. They failed to do so.
7. Rule 27(2) of the First-tier Tribunal for Scotland Housing and Property Chamber Procedure Regulations 2017 ("the Procedure Rules") states, " The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to - (a) comply with an order which stated that failure by the applicant to comply with the order could lead to the dismissal of the proceedings or part of them; or (b) co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly."
8. The Legal Member is satisfied that the Applicant has failed to cooperate with the Tribunal by failing to confirm if the application is to proceed or be withdrawn, having been directed to do so by the Legal Member. The Applicant has also failed to attend two CMDs, although the letters issued to the parties stated that

they were required to participate. Furthermore, the Applicant was notified, following the first CMD on 5 October 2021, that the Legal member required to know the current level of arrears and whether a payment order was still required.

9. In the circumstances, the Legal Member is satisfied that the application should be dismissed in terms of Rule 27(2)(b) of the Procedure Rules.

Decision

10. The Legal Member determines that the application should be dismissed.

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.



Josephine Bonnar, Legal Member

16 November 2021