



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 52 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 27 of the First – tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/EV/22/3918**

**Re: Property at Flat 9 5A Royston Mains Avenue, Edinburgh, EH5 1NN (“the Property”)**

**Parties:**

**Edinburgh Living LLP, Waverly Court 4 East Market Street, Edinburgh, EH8 8BG (“the Applicant”)**

**Thorntons Law LLP, Solicitors, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ (the Applicant’s Representative”)**

**Mr John Dewar, Flat 9 5A Royston Mains Avenue, Edinburgh, EH5 1NN (“the Respondent”)**

**Tribunal Members:**

**Martin McAllister (Legal Member) and Linda Reid (Ordinary Member) (“the tribunal”)**

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

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

**Background**

- 1. This is an application for eviction in terms of Section 51 of the 2016 Act.**
- 2. It was accepted for determination on 16<sup>th</sup> November 2022.**

## **Case Management Discussion**

- 3. A case management discussion was held by teleconference on 23<sup>rd</sup> February 2023.**
- 4. It was noted that no submissions had been received with regard to defects in the Notice to Leave despite the matter being drawn to the attention of the Applicant's Representative.**
- 5. There was no appearance by either party.**
- 6. It was noted that the Applicant's Representative had been sent the case papers and notification of the case management discussion. The documents were sent as an attachment to an email which the Tribunal Administration had sent to [cgordon@thorntons-law.co.uk](mailto:cgordon@thorntons-law.co.uk) on 6<sup>th</sup> January 2023 at 10.25 am.**
- 7. It was noted that notification of the case management discussion had been served on the Respondent by sheriff officer on 9<sup>th</sup> January 2023 and the tribunal had the relevant certificate of intimation.**
- 8. The tribunal clerk made contact with Thorntons Law and was advised that Mr Calvin Gordon, the solicitor dealing with the application, was engaged in a conference call about another case. She was advised that there was no one else available to participate in the case management discussion and was asked to pass on a request that the tribunal grant a continuation.**

## **Decision**

- 9. The tribunal decided that the application should be dismissed.**

## **Reasons**

- 10. The Applicant's Representative had notification of the case management discussion and should have arranged for representation at the case management discussion. The tribunal waited for thirty minutes after the scheduled time of the case management discussion before making its determination. This was to allow parties the opportunity to participate. No one attempted to join the teleconference.**
- 11. The tribunal considered that no substantive reason had been advanced to support the request for continuation.**
- 12. The tribunal had regard to Rule 27 of the Rules and Rule 27 (2) (b) in particular. The Applicant had not cooperated with the Tribunal because it had not appeared at the case management discussion which had been scheduled and which it had received notice of. Without the appearance of**

**the Applicant or its representative, the tribunal could not deal with the proceedings justly and fairly.**

### **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  
23<sup>rd</sup> February 2023**