



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 and Rule 27(2)(b) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017**

**Chamber Ref: FTS/HPC/CV/20/0387**

**Re: Property at Fettes Farmhouse, Muir of Ord, Ross-Shire, IV6 7SG (“the Property”)**

**Parties:**

**Burton Property Trust, C/O Galbraith, Reay House, 17 Old Edinburgh Road, Inverness, IV2 3HF (“the Applicant”)**

**Mr Charles Mackie, Mr Colin Mackie, Mrs Victoria Mackie, 31 Mile End Place, Inverness, IV3 8JH; Middle Property, 2 Ruisaurie, Beauly, IV4 7AJ; Middle Property, 2 Ruisaurie, Beauly, IV4 7AJ (“the Respondent”)**

**Tribunal Members:**

**Fiona Watson (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 was dismissed under Rule 27(2)(b) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”).**

**Summary of Decision**

1. An application dated 4 January 2020 was submitted to the Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondents in relation to rent arrears accrued under a short assured tenancy agreement.
2. A Case Management Discussion (“CMD”) took place on 21 August 2020 by tele-conference. The Applicant was represented by Claire Acheson. There was no appearance by or on behalf of the Respondents. The Applicant sought a

payment order in the sum of £11,526 being rent arrears accrued by the Respondents during the course of a short assured tenancy agreement which commenced 15 April 2016. The monthly rent was £895. The Respondents were no longer residing in the property.

3. By email to the Tribunal dated 14 August 2020 one of the Respondents, Victoria Mackie wrote:

*"I am writing in connection to recent correspondence received. I have a couple of points. 1. Charles Mackie is not part of these arrears. As CKD are aware Charles left the property prior to these arrears accumulating as my mother moved in. I would request his name be taken off this paperwork. 2. Colin and Victoria were declared bankrupt during this time and this debt was included in the bankruptcy paperwork. I will ask for confirmation to be sent to you. We will not be attending the meeting on 21st due to the above points."*

4. Ms Acheson confirmed that the Applicant was unaware that Charles Mackie had moved out of the property and no formal termination of tenancy was given by him. They were also unaware that Colin and Victoria Mackie had been sequestrated and no correspondence has been received by any Trustee appointed on their behalf. Ms Acheson confirmed that she had consulted the website of the Accountant in Bankruptcy and it did appear that Colin and Victoria Mackie had indeed been sequestrated, however she wished to obtain further information from, and make contact with, the Trustee to ascertain if the rent arrears debt had been disclosed as part of the sequestrated estate.
5. The Tribunal confirmed that it would require to be satisfied as to the position of the sequestrations of each of Colin and Victoria Mackie and what the date of sequestration was, to determine if an order for payment could be granted or whether said debt would fall into their respective sequestrated estates. The CMD was adjourned to a further CMD to enable the Applicant to make enquiries into the sequestrations of Colin and Victoria Mackie.
6. A further CMD took place on 12 October 2020 by tele-conference. None of the parties were present or represented. The Tribunal was satisfied that the date and time of the CMD, together with appropriate dial-in instructions, were issued to the parties by both letter and email on 11 September 2020 and that the parties had received due notification of the CMD.
7. In terms of Rule 27(2)(b) of the Rules, the Tribunal considered that it could not deal with the proceedings justly or fairly due to the Applicant's failure to cooperate, and specifically their failure to participate in the CMD and advise the Tribunal of their position on the application. The Application was accordingly 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.**

# **F Watson**

**Legal Member/Chair**

**12 October 2020  
Date**