



**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**

**Chamber Ref: FTS/HPC/CV/22/4044**

**Re: Property at 6 Vardon Lea, Motherwell, ML1 5NN (“the Property”)**

**Parties:**

**Mr Edward McCarron, 10 Sneddon Avenue, Wishaw, ML2 8DX (“the Applicant”)**

**Ms Christine Coogan, 6 Vardon Lea, Motherwell, ML1 5NN (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member)**

**Decision**

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

**Background**

1. The Applicant lodged an application on 7<sup>th</sup> November 2022 under Rule 70 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking payment of a sum of rent arrears.
2. At the same time the Applicant lodged an application for eviction of the Respondent.
3. Both applications were lacking in information and the Tribunal asked for that information to be provided.
4. In this application the Tribunal contacted the Applicant’s agent asking for a proper rent statement. This was provided, the case was accepted, and a Case Management Discussion fixed.

5. The Application was served on the Respondent by Sheriff Officer on 31<sup>st</sup> October 2023.
6. On 7<sup>th</sup> December 2023 the Applicant's agent emailed the Tribunal asking for the eviction application to be withdrawn. The Tribunal sent an email back confirming that it had been withdrawn. The email from the Applicant's agent did not mention this application.

### **Case Management Discussion**

7. The Case Management Discussion ("CMD") took place by teleconference. No one was present for the Applicant. The Respondent attended and represented herself.
8. The Clerk telephoned the Applicant's agent and was told that the person dealing with the case was at a unreal, but in any event she had received an email from the Tribunal saying that the case had been withdrawn.
9. The Tribunal considered the overriding objective in terms of Rule 2 of the Tribunal's rules, which states:  
*(2) Dealing with the proceedings justly includes—*  
*(a) dealing with the proceedings in a manner which is proportionate to the complexity of the issues and the resources of the parties;*  
*(b) seeking informality and flexibility in proceedings;*  
*(c) ensuring, so far as practicable, that the parties are on equal footing procedurally and are able to participate fully in the proceedings, including assisting any party in the presentation of the party's case without advocating the course they should take;*  
*(d) using the special expertise of the First-tier Tribunal effectively; and*  
*(e) avoiding delay, so far as compatible with the proper consideration of the issues.*
10. The Tribunal was of the view that the issue here was not complex. However, the standard of the application had been poor and it had taken nine months for it to be considered suitable to proceed. The accompanying eviction application had been withdrawn by the Applicant as they had not been able to satisfy the Tribunal's request for further information. As part of the overriding objective the Tribunal should avoid delay so far as compatible with proper consideration of the issues. The Applicant's agent thought that the application had been withdrawn along with the eviction application. It is not fair to the

Respondent to continue the CMD in this case when the Applicant's agent has not attended. The Tribunal decided to dismiss the application.

### **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.**

**A Kelly**

**Legal Member/Chair**

**8<sup>th</sup> December 2023**

**Date**