

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 48 of the Housing (Scotland) Act 2014 and Rule 27 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

Chamber Ref: FTS/HPC/EV/23/3449

The Property: 21 St. Murdochs Crescent, Arbroath, DD11 5BY (“The Property”)

The Parties:

**Mr Brian Taylor, 7 St. Murdochs Crescent, Arbroath, DD11 5DA (“the Applicant”) and
Thorntons Law LLP, Brothockbank House, Arbroath, DD11 1NE, (“the Applicant’s
Representative”) and**

**Mr Andrew Taylor, residing at 21 St. Murdochs Crescent, Arbroath, DD11 5BY (“the
Respondent”) and**

**Whelan & Co, Solicitors, 105 High Street, Arbroath, DD11 1DP (“the Respondent’s
Representative”)**

Tribunal Members:

**G McWilliams- Tribunal Legal Member
T Cain - Ordinary Member**

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) decided to dismiss the Application in terms of Rule 27 (2) (b) of the
First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure
2017 (“the 2017 Rules”)**

Background, Case Management Discussion and Reasons for Decision

- 1. This Application was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).**
- 2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2.00pm on 25th January 2024. The Respondent Mr A Taylor and his Representative’s Mr N. Whelan attended. Neither the Applicant nor his Representative attended.**
- 3. The Applicant’s Representative was notified of the details of the CMD by e-mail dated 28th November 2023. His Representative subsequently communicated by e-mail with the Tribunals Office on 11th December 2023. The Tribunals Office has not received any further communication from the Applicant or his Representative since that date.**
- 4. A preliminary issue between the parties, outlined in e-mails sent by both Representatives on 11th December 2023, was whether or not Ms L. Christie is a joint tenant with Mr A. Taylor. A Notice to Leave (“NTL”) was served on Mr A Taylor in advance of the current Application, on 23rd June 2023. This Application is proceeding against Mr A. Taylor only. At the CMD Mr Whelan stated that a fresh NTL had been served, at the instance of the Applicant Mr B. Taylor, by his Representative, on both Mr A. Taylor and Ms L. Christie on 12th January 2024.**
- 5. Rule 27 (2) (b) of the 2017 Rules provides that the Tribunal may dismiss the whole or part of the proceedings if the Applicant has failed to co-operate with the Tribunal to the extent that the Tribunal cannot deal with the proceedings justly and fairly.**
- 6. The Applicant and his Representative did not attend at the CMD today. They had not made any contact with the Tribunal’s office in advance of the CMD to intimate that they would not attend. They did not attend, or contact the Tribunal’s office, after the Tribunal’s Clerk telephoned the Representative’s office at 2.15pm this afternoon. In the circumstances the Tribunal decided that the Applicant had not co-operated with the Tribunal to the extent that they cannot deal with the Application justly and fairly. Accordingly, the Tribunal determined to dismiss the Application in terms of Rule 27 (2) (b) of the 2017 Rules.**

Outcome

- 7. The Tribunal dismissed 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.



G McWilliams Tribunal Legal Member

Date: 25th January 2024