



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

**Chamber Ref: FTS/HPC/CV/24/1158**

**Re: Property at Marnoch, Barchain Farm, Buittle, Castle Douglas, DG7 1NN (“the Property”)**

**Parties:**

**Mr Andrew Sturgess, 27 Dalkeith Avenue, Glasgow, G41 5LF (“the Applicant”)**

**Ms Evaline Henderson, previously residing at Marnoch, Barchain Farm, Buittle, Castle Douglas, DG7 1NN and whose present whereabouts are unknown (“the Respondent”)**

**Tribunal Member:**

**Shirley Evans (Legal Member)**

**Decision (in absence of both parties)**

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

**Background**

1. This is an action for rent arrears raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a Private Residential Tenancy Agreement between the parties dated 28 April 2019, an Order for Eviction dated 30 November 2023 and a Notice to Leave dated 17 April 2023.
3. On 3 April 2024, the Tribunal accepted the application under Rule 9 of the Regulations.

4. On 2 May 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 23 May 2024. The Tribunal also advised both parties by letter on 2 May 2024 that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 10 June 2024. This paperwork was unable to be served on the Respondent as her whereabouts were unknown. The application was thereafter served on the Respondent by advertisement in terms of Rule 6A of the Rules. A copy of the Execution of Service was received by the Tribunal administration and placed before the Tribunal.
5. The Respondent did not lodge any written representations by 23 May 2024.

### **Case Management Discussion**

6. The Tribunal proceeded with the CMD on 10 June 2024 at 10am. There was no appearance by or on behalf of either the Applicant or the Respondent despite the Tribunal keeping the conference call line open until 11.15am.

### **Reasons for Decision**

7. The Tribunal noted the terms of the letters to parties of 2 May 2024 that the CMD would proceed on 10 June 2024 at 10am. The Tribunal also noted that both parties were advised in the letters that the Tribunal could do anything at the CMD which it could do at a hearing including making a decision on the application. The Tribunal further noted that parties were both advised that if they did not attend the Case Management Discussion this would not stop a decision or order being made by the Tribunal. The Tribunal was satisfied that both parties were aware that the Case Management Discussion would proceed on 10 June 2024.
8. The Tribunal, in the absence of the Applicant or any representative from the Applicant and in the absence of the Respondent or any representative from the Respondent, had no information before it to determine the case.

### **Decision**

9. The Tribunal dismissed the application in the absence of both parties.

### **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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

# Shirley Evans

10 June 2024

Legal Member

Date