



**First-tier tribunal for Scotland (Housing and Property Chamber)  
("the tribunal")**

**DECISION: Rule 27 of the First-tier Tribunal Housing and Property Chamber  
(Procedure) Regulations 2017 ("the 2017 Rules")**

**Chamber Ref: FTS/HPC/CV/24/0531**

**Re: Property at 37 Craigie Way, Ayr, KA8 0HQ ("the Property")**

**Parties:**

**Mr Adam McLaughlin, 2A Taylor Street, Ayr, KA8 8AU ("the Applicant")**

**McLaughlin (Ayr) Ltd, 2A Taylor Street, Ayr, KA8 8AU  
("the Applicant's Representative")**

**Miss Amanda Woodside, 11 Raggithill Avenue, Mossblown, KA6 5BP ("the  
Respondent")**

**Tribunal Member(s):**

**Ms. Susanne L. M. Tanner K.C. (Legal Member)**

## **DECISION**

**(1) The tribunal dismissed the Application in terms of Rule 27 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, because the Applicant failed to comply with an order which stated that failure by the Applicant to comply with the order could lead to dismissal of the proceedings or part of them; and failed to cooperate with the First-tier Tribunal to such an extent that the tribunal cannot deal with the proceedings justly and fairly.**

## **STATEMENT OF REASONS**

### **Procedural Background**

1. On 23 January 2024, the Applicant's Representative made an application to the tribunal in terms of Section 16 of the Housing (Scotland) Act 2014 ("the

2014 Act”) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”), seeking a payment order for £1528.80 against the Respondent in respect of alleged end of tenancy repairs.

2. On 6 March 2024, the tribunal asked the Applicant’s Representative to provide the end date of the tenancy; to provide specification of the claim; to provide supporting evidence; and to amend the application to include the joint owner or provide her authority to the application.
3. On 25 March 2024, the Applicant’s Representative submitted written representations and evidence; confirmed that the end of tenancy date was 6 April 2023.
4. On 23 April 2024, the Application was accepted for determination and a Case Management Discussion (CMD) was fixed for 25 June 2024.
5. Notification of the Application and CMD was sent to both parties. Service on the Respondent was made by Sheriff Officers on 21 May 2024.
6. On 10 June 2024, the Respondent requested a postponement of the CMD. The application was not opposed and the CMD was postponed.
7. On 20 June 2024, the Respondent submitted a written defence to the claim and provided supporting evidence.
8. On 25 June 2024, the Legal Member then dealing with the case issued a Direction to parties, which was sent by the tribunal’s administration by email on 1 July 2024. The Applicant was required to provide a written submission responding to the representations received from the respondent no later than 30 July 2024. Both parties were asked to provide names of all witnesses they intend to call at the hearing and a numbered List of Productions that they wish to rely on, together with copies of all those productions, no later than 30 July 2024.
9. On 23 July 2024, the Respondent provided the name of a witness, Ms Lesley Quinn and confirmed that she wished to rely on her recent response (as above).
10. The Applicant’s Representative did not comply with the Direction dated 25 June 2024.
11. On 21 August 2024, both parties were notified of the joining details for the CMD on 24 September 2024 at 1000h by teleconference and told that they were required to take part. The Applicant was notified on the email she provided for tribunal communications. Notification on the Respondent was service by Sheriff Officers.
12. On 4 September 2024, the Respondent confirmed the name of the witness she wished to call at the hearing; and asking the tribunal to confirm next steps

for the hearing due to the notification documents which had been received. The tribunal's administration provided the dial in details for the CMD which was due to take place on 24 September 2024 at 1000h.

- 13.A Case Management Discussion (CMD) took place remotely on 24 September 2024 at 1000h.
- 14.The Applicants' Representative did not attend and did not make any contact with the tribunal's administration. The tribunal Clerk confirmed that notification had been sent to the Applicant's Representative on 21 August 2024 to the email address provided by her and used in previous communications with the tribunal's administration. The tribunal clerk attempted to contact the Applicant's Representative on the mobile and landline telephone numbers provided to the tribunal but both calls were unanswered and went to voicemail.
- 15.The Respondent, Miss Woodside, attended the CMD.
- 16.The tribunal was satisfied that the Applicant's Representative was notified of the Case Management Discussion on 21 August 2024. The tribunal decided to proceed with the Case Management Discussion in the absence of the Applicant's Representative, in terms of Rule 29 of the 2017 Rules and proceeded upon the representations of Miss Woodside and all the material before it.
- 17.As indicated by the previous Legal Member in their Direction of 25 June 2024, there were disputed matters of fact between the parties and a hearing was required to allow both parties to present evidence.
- 18.The legal member considered the overriding objective to deal with the proceedings justly and considered that there may be a good reason why the Applicant's Representative has not attended so they did not dismiss the Application for want of insistence. The Legal Member considered that a hearing is required if the Applicant is insisting on the Application and that there is no requirement to fix another CMD provided that the Applicant's Representative complies with the requirements in the Direction of 25 June 2024 that she has not complied with, namely to provide a written submission in response to the Respondent's submissions in defence of the Application; and has not provided a List of Documents or a List of Witnesses; and has not attended the Case Management Discussion.
- 19.The Respondent confirmed that she wishes to rely on the documents already lodged and did not wish to lodge any further documentary evidence. She also confirmed that she wished to call one witness, her mother, who was involved in helping her to move out of the Property. The Respondent was asked to

provide dates of unavailability for her and her witness and provided a note to the tribunal clerk. The legal member confirmed to the Respondent that a hearing would be fixed and that notification would be sent to both parties.

20. The CMD was adjourned for the reasons given above and the Legal Member issued a Direction to the Applicant / Applicant's Representative, as discussed below.
21. On the same day, after the CMD concluded, the tribunal Clerk received a call back from Ms Claire Main at the Applicant's Representative. She told the Clerk that she had not received the email notification of the CMD. The Clerk informed her that a hearing would be fixed. The clerk obtained a note of unavailable dates from Ms Main to provide to the tribunal's scheduling team.
22. A Case Management Discussion Note dated 24 September 2024 was drafted by the Legal Member. A Direction was drafted by the Legal Member on 24 September 2024, repeating the orders in the previous Direction; and the Direction notified the Applicant and his Representative that if the Applicant or his Representative failed to comply with the Direction or to cooperate with the tribunal to such an extent that it cannot deal with the proceedings justly and fairly, the Application may be dismissed in terms of Rule 27 of the 2017 Rules. The Applicant / Applicant's Representative was required to respond by 1 October 2024. However, due to administrative oversight by the tribunal's administration, the Case Management Discussion Note and Direction were not sent by the tribunal's administration to the Applicant's Representative until 25 October 2024. Before it was issued, the date for response was extended by the Legal Member to 1 November 2024.
23. The Applicant / Applicant's Representative did not comply with the Tribunal's Direction by 1 November 2024. As at 22 November 2024, there has been nothing submitted by the Applicant's Representative since the CMD on 24 September 2024.

### **Application of relevant statutory provisions**

24. Rule 27(b) of the 2017 Rules provides that the tribunal may dismiss the whole or part of the proceedings if the applicant has failed to comply with an order which stated that failure by the Applicant to comply with the order could lead to the dismissal of the proceedings or part of them; or the applicant has failed to cooperate with the tribunal to such an extent that the tribunal cannot deal with the proceedings justly and fairly.

25. The Applicant (through his Representative) has failed to comply with an order which stated that failure by the Applicant to comply with the order could lead to the dismissal of the proceedings or part of them; and the applicant has failed to cooperate with the tribunal to such an extent that the tribunal cannot deal with the proceedings justly and fairly. The Applicant and/or his representative failed to comply with two Directions, the second of which contained a notice that the application may be dismissed if there was failure to comply. The Applicant's Representative is aware that a CMD took place on 24 September, which she did not attend and a Note of that CMD was sent to her, containing a summary of the CMD. As discussed, the Application is lacking in specification, supporting evidence is required and there has been no response to the Respondent's defence. Lists of Witnesses and Documents have not been lodged.

26. The tribunal therefore dismisses the Application in terms of Rule 27 of the 2017 Rules.

27. It follows that the case is at an end and there will be no further procedure.

## **Appeals**

**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.**

Ms Susanne L. M. Tanner K.C.  
Legal Member and Chair

23 November 2024