



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

Chamber Ref: FTS/HPC/PR/23/2262

**Re: Property at 28/1 Rodney Street, Canonmills, Edinburgh, EH7 4EA (“the
Property”)**

Parties:

**Ms Isidora Bouziouri, 13/2 Carlton Terrace, Hillside, Edinburgh, EH7 5DD (“the
Applicant”)**

**Mr Andreas Galatoulas, 18 Burnham Close, London, SE1 5RL (“the
Respondent”)**

Tribunal Members:

Melanie Barbour (Legal Member) and Helen Barclay (Ordinary Member)

DECISION

**The tribunal refuses the respondent’s motion to dismiss the application; refuses
to award expenses against the applicant for the whole of the cause; and
continues consideration of the respondent’s alternative motion for expenses for
the conduct and preparation of the hearing on 29 April 2025.**

BACKGROUND

1. An application was made under rule 110 of the First Tier Tribunal Rules 2017.
It is an application made under section 58 of the Private Housing (Tenancies)
(Scotland) Act 2016 - wrongful termination without eviction order.

2. The property is 28/1 Rodney Street, Cannonmills, Edinburgh.
3. The application case papers had been served on the respondent by sheriff officers on 21 May 2024.
4. A case management discussion took place on the 25th of June 2024. In attendance at the case management discussion was the applicant and the respondent's representative Mr Chisholm, from Messrs Clyde and Co.
5. A case management discussion note dated 2 July 2025 together with the direction dated 2 July 2024 was issued to parties with a decision that a hearing was to be fixed.
6. The applicant requested further time to comply with the request. The respondent submitted papers in terms of the direction. A hearing was fixed for 11 November 2024. It was postponed at the request of the respondent (on 23 October 2024) raising issues with the applicant's submission. A further direction was issued on 11 November 2025 providing further time to comply, in the same terms as the first but extending the time frame to make submissions. The matter was to progress to a hearing.
7. A new hearing date was fixed for 24 February 2025. It required to be postponed due to non-availability of the legal member.
8. A hearing was fixed for 29 April 2025. The hearing preceded by Webex. In attendance at the hearing were the applicant, the respondent and the respondent's legal representative, Mr Chisholm from Messrs Clyde and Co.
9. On the morning of the hearing the applicant submitted an email attaching a psychologist's letter; and advising that two of her witnesses would no longer be attending the hearing her psychologist, Dr Tulloh and her partner. Her partner was said to be on a diplomatic mission. She advised that the psychologist's daughter was due to give birth, and she was on leave for that reason. She also

advised she would be joined by a close friend and neighbour, Ms Obayomi, who would bear witness and support her.

HEARING

10. At the outset of the hearing the tribunal sought to confirm witnesses, productions, written submissions and any other preliminary matters.

Witnesses

11. The applicant advised that she wished to call her friend, as her supporter and witness, Jairus Obayomi. The respondent's agent objected to her being called as a witness and sitting as a supporter. He considered it would not be in the interests of justice, would be prejudicial to her evidence and unfair to the respondent. The tribunal agreed with the respondent. The applicant advised that she would prefer to have Jairus Obayomi appear as a witness and not as her supporter on that basis.

12. The respondent's agent objected to the late notice of this witness. Notice was only provided that morning. He noted that a direction had been issued some time ago. The applicant was seeking to call this witness and only notify the tribunal and the respondent on the day of the hearing. He had no notice as to what she was speaking about; but considered it will be third party information and likely hearsay evidence. He considered it would not be appropriate to allow this witness to be called at this stage. The applicant advised that this witness would be speaking to relevant matters in relation to the application, she was a witness as she knew the applicant as a friend, knew the applicant as a neighbour at the property, had spoken to the respondent, and could speak to circumstances after the applicant had vacated the property. She considered her to be relevant to her case. The applicant also advised that this witness had previously been pregnant and given birth last year and this was why she had not called this witness at that time. She advised that she'd overlooked putting her on as a witness after that date. Calling this witness had only occurred to her

shortly before today's hearing. She advised she was not represented and did not have an understanding of all of these proceedings. She further advised that she had been ill over the course of the weekend and had to call out an ambulance due to chest pains. She indicated that she was not well. She had submitted an extract of what appeared to be a medical record showing that the ambulance service had attended at her property at the weekend, there were no further details of what treatment she required, but there was reference to chest pains. The tribunal did not have before it any correspondence from a doctor confirming the current state of health of the applicant.

13. The tribunal considered the matter and determined that : no notice had been given of this witness until this morning; these proceedings had first called in July 2024 and a direction had been issued shortly thereafter which had been extended in order to allow parties to comply with the timescales for lodging papers and witness lists. Parties had had a long period of time during which to determine which witnesses to call; accordingly, it would not be fair on the respondent for this witness to be allowed to give evidence at today's hearing. It was also a breach of the tribunal rules to seek to add a witness at this late stage. The applicant had one other witness who she intended to call, that witness had previously been intimated to the tribunal in accordance with the time scales.
14. The applicant requested that if the witness was not entitled to give evidence today then the case should be adjourned in order that she could attend to give evidence at a later date, and the respondent would have time to investigate matters. The adjournment was objected to given the late notice and as the respondent was ready to proceed.
15. The respondent confirmed that his witness list was contained within his e-mail of 27 January 2025. There were 7 witnesses on the list. He intended to call all witnesses except for witness number 4.

Productions

16. The parties advised the tribunal which productions they were intending to rely on in relation to their case.
17. The applicant advised that she sought to rely on the productions lodged with her email of 3 February 2025. She also wished to rely on a copy of the letter from Doctor Allison Tulloh. Doctor Tulloh had previously been on the applicant's list of witnesses.
18. The respondent advised that his productions were contained within his e-mail of 27 January 2025.
19. The respondent advised that he had objections to make in relation to certain of the applicant's productions. The respondent objected to copy emails that appeared to be written in Greek and also, Greek bank statements in the applicant's bundle of productions. He advised that there appeared to be an English translation provided by the applicant. He objected because no official translation was provided for those documents. The respondent's agent also objected to the late lodging of the letter from the doctor. He advised that no notice had been given of this production, and it was unfair to allow it to be received and considered on the morning of the hearing. He had no ability to take instructions from his client and consider the implications of the letter. He further advised that he had previously made an objection to the calling of this witness as an expert witness and accordingly, he would rely on his objection of October 2024 if the tribunal wished to allow this document to be received.
20. The applicant advised that she had not been aware that documents had to be translated officially. She submitted that she did not have representation and wasn't aware about the rules for translated documents. The applicant advised that the doctor's letter was relevant and material to her case and she wished it to be considered by the tribunal. She advised that the doctor was unable to attend the hearing and therefore the letter had been submitted. The tribunal noted that the letter from the doctor was dated 20 February 2025. The applicant advised that it had been prepared prior to the earlier hearing which had had to be adjourned, and the doctor could not attend that hearing. On being asked,

she further advised that the doctor could not attend today's hearing. She indicated that she had told someone from the tribunal service that the doctor could not attend, and she would be submitting a letter. This appeared to be a clerk, and she had not formally intimated in writing any of this to the tribunal. She indicated that she had appeared to overlook forwarding the letter earlier. She indicated she was going to email the tribunal yesterday on the 28th of April however, she had not been feeling well and did not do so. She indicated again she had been unwell over the weekend.

Submissions

21. In relation to written submissions which have been provided by each party the tribunal sought clarification as to which submissions each party was relying on.
22. The applicant advised that she would be relying on her written submission of the 7th of November 2024 and 3rd February 2024.
23. The respondent advised that he was relying on his written submission set out in his letter of 27th January 2025 together with his further supplementary submission emailed to the tribunal on the 25th of April 2025.

Further procedure.

24. The tribunal thereafter adjourned to consider further procedure and to determine the further objections. After considering the various objections and the parties' positions. The tribunal took into account the following matters:-
 - a. Motion to allow the late lodging of a production by the applicant,
 - b. Motion to allow a new witness to be called by the applicant,
 - c. That the applicant advised she was unrepresented and had not properly understood the process of these proceedings, and
 - d. That the applicant did not feel well and had been ill over the weekend.

Taking all factors together the tribunal did not consider it would be in the interests of justice to progress with today's hearing given the position of the applicant.

25. The tribunal considered the position of the respondent. The respondent had appeared to have acted in accordance with the direction. They had lodged their witness list; his productions; and his written submissions. The tribunal did consider that he would be prejudiced by a failure to make progress with today's hearing as it would cause further delay to him, but it would not prevent him putting forward his case at a later date. On balance we considered that the rights and interests of the applicant and the ability of the tribunal to ensure fairness to both parties required that the tribunal adjourned these proceedings until a later date.

26. The tribunal requested that parties attend at 2:00pm and the hearing would thereafter take place as a case management discussion to confirm what productions; written submissions; and witnesses would be appearing at the next hearing. To also see if time could be used for matters to be better focused before the next hearing. Parties were also asked to confirm availability at that hearing.

Motion for Dismissal, expenses and alternative motion for expenses

27. At 2pm, the tribunal heard from the respondent's agent. He agent moved to have the application formally dismissed the application in terms of rule 27 of the Tribunal Rules. He submitted that his previous postponement request of 23rd October 2024 was relevant to this determination. He submitted that he had raised issues about the failure of the applicant to properly prepare at that time. His submission was that the applicant had failed to cooperate to such an extent that the tribunal was unable to deal with the matter justly and fairly. In support of this proposition, he noted that the case had been ongoing for over 2 years. There had been a previous failure to lodge documents and a witness list. There had been a failure to proceed with the application due to the actings of the applicant. Today two witnesses had not attended and so she wished to call a

new witness, and a document had been lodged all very late. He advised that the conduct of the applicant was prejudicial to the respondent. He considered the issues in his postponement request had not been adequately dealt with by the applicant. He had suggested at that time that the hearing should be converted to a case management discussion, and this was where the hearing had ended up today. He suggested that the whole matter came at considerable cost to his client with witnesses called. He advised his client had already spent thousands in legal costs and evidence had not been provided by the applicant to progress the case.

28. The respondent's agent made a motion for expenses in terms of rule 40 and sought the expenses for all of the application. He advised that the conduct of the applicant had put the client to considerable expense. This was due to the failure to properly prepare. The failure to take advice. The general disregard for compliance with the rules.
29. His alternative motion if the tribunal were not prepared to dismiss the application was to award expenses for the preparation and conduct of today's hearing.
30. If the case was dismissed the respondent was seeking expenses over the course of the whole cause. If we were not with him, then he sought expenses for the conduct and preparation of today's hearing.
31. He suggested that in terms of a general failure the applicant had failed to deal with the crux of the action under section 58. He submitted that there was no proper account taken of the legislation; the case law and the applicant had been merely mudslinging. He suggested there was a complete disregard in the way that the applicant had proceeded to present her case.
32. The applicant submitted that she had not failed to respond to directions in relation to her case. She submitted that the respondent had shown a pattern of misleading the tribunal and twisting the facts. She opposed the dismissal of the case. She advised that her failure was due to her inability to obtain

representation which had been crucial to her preparation. She advised that she could bring witnesses with her next time. She considered that if the case was dismissed it was done so in a technicality. She will be prepared as best as possible next time the case calls. It was the position of the applicant she had not failed to properly prepare her case and deal with the direction. She advised in October 2004 she had missed the deadline to submit papers, and the respondent had asked for a postponement. She had asked for time for leeway to lodge the papers. She had not ignored the tribunal. She referred to social media posts which had been submitted by the respondent she considered those to be misleading in terms of her conduct towards the tribunal. She advised that she had submitted evidence. In relation to the conduct of today's hearing she advised that the email she had submitted recognised that the doctor couldn't appear today. It was the applicant's position that she had told the tribunal that the doctor could not attend. She asked the hearing to show her compassion. She believed she thought she had sent a letter from the doctor earlier. She advised that it was only on Saturday that she realised that she would need support at today's hearing. Rather than asking for a postponement she intended to bring her witness with her as her witness and supporter. She had drafted an e-mail yesterday to explain matters to tribunal but had not been well and therefore she sent the e-mail this morning.

33. In relation to expenses she submitted that she didn't have representation and an award of expenses against her would be unfair. She didn't consider that she had put the respondent to unreasonable costs. She submitted that the respondent did not need a solicitor to appear and represent him in these proceedings. It was his choice to have a solicitor. She advised that the true reason that she'd left her property and fled her home was because she could not bear the intimidation from the respondent. She fled her home, and she didn't look back. She submitted the application as the respondent did not leave her alone. The respondent asked for a short adjournment and after returning she advised that this whole experience had an impact on her life. She considered the motions to dismiss the case and expenses were baseless. She considered that the conduct had been referred were before the application was brought. She explained our position regarding today. She advised that she had

previously told one of the clerks in February 2025 that the doctor would not be attending the hearing. She advised she can submit further information regarding her regarding her health.

LAW

The Private Housing (Tenancies) (Scotland) Act 2016 provides :-

50 Termination by notice to leave and tenant leaving

(1) A tenancy which is a private residential tenancy comes to an end if— (a) the tenant has received a notice to leave from the landlord, and (b) the tenant has ceased to occupy the let property.

(2) A tenancy comes to an end under subsection (1) on the later of— (a) the day specified in the notice to leave in accordance with section 62(1)(b), or (b) the day on which the tenant ceases to occupy the let property.

(3) For the avoidance of doubt, a tenancy which is to come to an end under subsection (1) may be brought to an end earlier in accordance with section 48.

58 Wrongful termination without eviction order

(1) This section applies where a private residential tenancy has been brought to an end in accordance with section 50.

(2) An application for a wrongful-termination order may be made to the First-tier Tribunal by a person who was immediately before the tenancy ended either the tenant or a joint tenant under the tenancy (“the former tenant”).

(3) The Tribunal may make a wrongful-termination order if it finds that the former tenant was misled into ceasing to occupy the let property by the person who was the landlord under the tenancy immediately before it was brought to an end.

(4) In a case where two or more persons jointly were the landlord under the tenancy immediately before it ended, the reference to the landlord in subsection (3) is to any one of those persons.

***The First-tier Tribunal for Scotland Housing and Property Chamber
(Procedure) Regulations 2017 provide :-***

27.— Dismissal of a party's case

(1) The First-tier Tribunal must dismiss the whole or a part of the proceedings if the First-tier Tribunal does not have jurisdiction in relation to the proceedings or that part of them.

(2) The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to—

(a) 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

(b) co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly.

40.— Expenses

(1) The First-tier Tribunal may award expenses as taxed by the Auditor of the Court of Session against a party but only where that party through unreasonable behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense.

(2) Where expenses are awarded under paragraph (1) the amount of the expenses awarded under that paragraph must be the amount of expenses required to cover any unnecessary or unreasonable expense incurred by the party in whose favour the order for expenses is made.

REASONS FOR DECISION

Motion to dismiss application and expenses

34. In relation to the respondent's motion to dismiss the application the tribunal refuses the respondent's motion. The tribunal does not consider that the applicant has failed to cooperate with the first tier tribunal to such an extent that the first tier tribunal cannot deal with the proceedings justly and fairly.
35. This application relates to a section 58 (unlawful termination of a tenancy). The tribunal has to determine whether or not a private residential tenancy had been established; had a notice to leave had been served on the applicant; and had the applicant been misled into leaving the property.
36. The applicant has lodged tenancy agreements, notices to leave and advises that she has been misled into leaving the property. The last notice to leave stated that the respondent intended to sell the property. He is still the owner of the property. Prima facie the applicant appears to have provided evidence to support her application. Additional evidence that the applicant seeks to lead may be relevant to the size of any award if she can demonstrate that the section 58 test has been met.
37. As at the date of the hearing on 29 April 2025 the applicant had not properly complied with the direction or tribunal rules (which state that parties have to lodge list of witnesses and productions at least 7 days before the hearing). We consider that does demonstrate a disregard for these proceedings and for the tribunal. While the tribunal is not impressed with the conduct of the applicant in terms of the hearing on 29 April 2025, we do not consider that it leads to a conclusion that the tribunal would not be able to deal with the proceedings justly and fairly. Directions have been issued and in the main they have been complied with, such that parties could have proceeded had witnesses been available or earlier notice been given by the applicant.

38. Turning to the letter from the doctor, it demonstrates that since at least 20 February 2025 this document could have been lodged by the applicant if she wished to rely upon it. Further, she could also have given notice that the doctor was not available to attend the hearing and that was why she wished to rely on the document. In relation to the witness that she intended to call today, the tribunal notes the applicant's reason for not calling her earlier. We were unimpressed by her reason for not calling her earlier. We consider that she could have provided notice of this witness at a much earlier date.

39. Against these matters we note she was unrepresented. She also indicated she has poor health. For those reasons and as we consider that in the main the applicant has cooperated with the first tier tribunal, then we do not consider that we should dismiss the application in terms of rule 27.

40. We are also not prepared to award expenses for the whole of the cause. For the avoidance of doubt, we do not consider that the test in rule 40 is met for an award for the whole period since the applicant was made and the respondent has been involved in these proceedings. As noted we consider that *prima facie*, the application is entitled to pursue this application, and the respondent therefore has a right to respond. A claim for expenses is made for the entirety of the application process. While the test is a discretionary one, the tribunal is only allowed to award expenses where *a party through the unreasonable behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense. It does not appear to us that the applicant's conduct for the entirety of the proceedings has put the other party to unnecessary or unreasonable expense.* Accordingly we refuse this motion.

Motion for expenses of hearing on 29 April 2025

41. Turning to the question of expenses in terms of the respondent's alternative motion (where the tribunal did not dismiss the case under rule 27) that the tribunal should consider awarding expenses in favour of the respondent for the costs of preparing and conducting today's hearing. Rule 40 in relation to

expenses is a discretionary matter for the tribunal and the tribunal may award expenses only where that party through the unreasonable behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense.

42. As these proceedings have not been dismissed and will proceed to a further hearing, the tribunal will continue consideration of this motion for expenses until the end of the hearing process. The tribunal will determine this issue at that time. The parties will be entitled to make further relevant submissions on the question of the expenses for the hearing on 29 April 2025 at that time.

DECISION

43. The tribunal refuses the respondent's motion to dismiss the application; refuses to award expenses against the applicant for the whole of the cause; and continues consideration of the respondent's alternative motion for expenses for the conduct and preparation of the hearing on 29 April 2025.

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.

Melanie Barbour

6 May 2025

Legal Member/Chair

Date