

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 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/3996

Re: Property at 4 Abbotsford Rd, Hamilton, ML3 0PN (“the Property”)

Parties:

Mr Joseph Sander, 1 Fernhill Grange, Bothwell, G718SH (“the Applicant”)

Ms Hannah McCluskey, 4 Abbotsford Rd, Hamilton, ML3 0PN (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of both parties)

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

Background

1. By application dated 21 August 2024 the Applicant applied to the Tribunal for an order for the eviction of the Respondent from the property under grounds 12 and 14 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, a Notice to Leave, a Section 11 Notice, and correspondence with the Respondent in support of the application.
2. Following further correspondence between the Tribunal administration and the Applicant by Notice of Acceptance dated 9 November 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned. On the same date the Tribunal issued Directions to the Applicant.
3. By email dated 16 January 2025 the Applicant responded to the Directions and provided a rent statement.

4. Intimation of the proceedings were sent to the Applicant by email on 1 March 2025.
5. Intimation of the proceedings were served on the Respondent by Sheriff Officers on 4 March 2025.

The Case Management Discussion

6. A CMD was held by teleconference on 1 May 2025. Neither party attended nor were they represented.
7. After allowing a period of ten minutes for the parties to join the conference the Tribunal instructed the Tribunal Clerk to contact the Applicant by telephone to ascertain his reason for non-attendance. The Tribunal clerk advised the Tribunal that his attempt to call the Applicant was unsuccessful.
8. The CMD could not proceed in the absence of both parties.

Reasons for Decision

9. The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 at Rule 27(2) provides that a Tribunal may dismiss the whole or part of the proceedings if the Applicant has failed to (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.
10. The Applicant was advised in correspondence from the Tribunal administration dated 15 November 2024 that the Tribunal would expect to be addressed at the CMD on issues as regards service of a Rent Increase Notice on the Respondent and evidence of a breach of ground 14 of schedule 3 of the 2016 Act in addition to the photographs submitted. The Tribunal attempted to contact the Applicant to give him an opportunity to be heard.
11. In the absence of the Applicant the issues raised in the correspondence of 15 November 2024 could not be investigated nor could the Tribunal ascertain the current circumstances or make any assessment of the reasonableness of the application. The Tribunal was therefore unable to deal with the proceedings justly and fairly and determined that the application should be dismissed.

Decision

12. The application is dismissed for want of insistence and in terms of Rule 27(2).

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 Harding

**Graham Harding
Legal Member/Chair**

**1 May 2025
Date**