



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 92(2) of the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”)**

**Chamber Ref: FTS/HPC/GL/24/5083**

**Parties:**

**Miss Marissa Black (Power Of Attorney for Steven Black), 19 Kilwinning Crescent, Airdrie, North Lanarkshire, ML6 7DD (“the Applicant”)**

**North Lanarkshire Council, Chief Executive's Office, Chief Officer (Legal & Demotratric), Civic Centre, Windmill Street, Motherwell, ML1 1AB (“the Respondent”)**

**Tribunal Members:**

**Yvonne McKenna (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refuses the application and declines to make an order requiring the local authority to enter the Applicant in the register maintained by it under Section 82(1) of the 2004 Act.**

**Background**

1. This is an application in terms of s99 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s 92 of the Antisocial Behaviour etc Scotland Act 2004, ‘the Act’, made by Miss Marissa Black, who holds a Power of Attorney for her brother, Mr Steven Black, the landlord..

2. The basis of the application was that the Applicant, Mr Steven Black, had been removed from the register of landlords held and approved by North Lanarkshire Council.

3. The Applicant lodged along with their application;-
  - Form G dated 1 November 2024
  - Decision letter from North Lanarkshire Council dated 15 October 2024
  - Power of Attorney dated 21 December 2023
4. After the application was served on the Respondent, answers were lodged with the Tribunal on 7 March 2025. The Respondent lodged the following documents with the Tribunal;
  - Report before Regulatory Committee dated 10 May 2024
  - Representations made by Applicant before Regulatory Committee
  - Note of decision of Regulatory Committee dated 1 October 2024
  - Minute of meeting of Regulatory Committee dated 1 October 2024
5. The application was accepted by the Tribunal on 7 November 2024.

### **The Case Management Discussion**

6. The Case Management Discussion ('CMD') took place by teleconference on 22 April at 2pm. The Applicant did not participate. The Respondent was represented by Mr Douglas Harvey, solicitor. The date and time of the CMD had been properly intimated to the Applicant at the e-mail address they provided to the Tribunal.
7. Given that the Applicant was not present, the Tribunal proceeded to consider the submissions that had been made by the Applicant in their original application, and the CMD proceeded on that basis.

### ***Submissions for the Applicant (in writing)***

8. In their application the Applicant submitted that;

*'On 15 October 2024, North Lanarkshire Council decided to remove Steven Black, reason stated, not fit and proper person to act as a landlord. Reason for appeal, decision was on basis that he had convictions under the misuse of drugs act; he is in process of appealing convictions.*

*He has held his licence over 6 years, with no tenancy complaints, he has no other income, he relies on this income to support his daughter.*

*He is currently prevented from selling property due to proceeds case ongoing. If licence not restored he would have to pay to maintain property until proceeds case concluded and is able to sell property, and he would have no funds.*

*Would like to maintain licence as decision unreasonable in all the circumstances, if not permanently then until appeal of conviction is resolved and proceeds of crime case is resolved, as if any funds have been accrued by convictions then the crown would receive this money and Steven would not be profiting from any criminal activity. Also if helps, Marissa Black could act as landlord as POA in place for her,*

*and not tenant and rental management company would have no contact with Steven Black.'*

### ***Submissions for the Respondent***

9. Mr Harvey invited the Tribunal to refuse the application.

10. He relied on his written submissions;

*1 This is an application asking the Tribunal to reverse a decision made by the respondent on 1 October 2024. On this date, the respondent decided to remove Mr Steven Black from the Register of Private Landlords, in terms of Section 89 of the Anti-Social Behaviour Etc. (Scotland) Act 2004 (the "2004 Act").*

*2 The applicant seeks to have this decision reversed on the basis that it was unreasonable.*

*3 The respondent opposes the application and moves for it to be refused.*

#### *Background*

*4 The appellant is the sister of Mr Steven Black. The appellant has power of attorney over Mr Black.*

*5 Mr Black owns and privately lets 101, Overton Road, Waterloo, Wishaw, North Lanarkshire, ML2 8EW.*

*6 In June 2020, Mr Black was arrested, having been found to be involved in a criminal operation involving the supply of large quantities of controlled drugs and the cash proceeds. Mr Black was convicted in Glasgow High Court on 9 October 2023 for offences under the Misuse of Drugs Act 1971 and Proceeds of Crime Act 2002. Mr Black was sentenced to nine years' imprisonment.*

*7 On 17 February 2023 Mr Black submitted a landlord registration application, which was approved by the respondent. This was prior to Mr Black's criminal conviction and no convictions and court judgments are listed in the application. The application also does mention Mr Black instructing a letting agent to manage the property.*

*8 By letter dated 6 February 2024, the Chief Constable of Police Scotland notified the respondent of Mr Black's criminal convictions.*

#### *The decision*

*9 The respondent's Regulatory Committee (the "Committee") met on 1 October 2024. The Committee took into account the following representations made by the appellant:*

*(a) The offences were not linked to Mr Black's rental property;*

*(b) Mr Black admitted guilt for his crimes and expressed genuine remorse;*

*(c) This was Mr Black's first offence;*

*(d) His rental properties were funded legitimately and were not involved in an illegal activity;*

*(e) The proceeds of crime case was ongoing with forensic analysis yet to be completed; and*

*(f) The rental management was conducted professionally by Aquila Management Services, ensuring compliance with tenant and landlord regulations.*

*10 The Committee took into account these representations when finding that Mr Black was no longer a fit and proper person within the terms of the 2004 Act. The Committee concluded that removal of Mr Black from the Register of Private Landlords was a necessary and proportionate response.*

#### *Submission*

*11 The appellant argues that the decision made on 1 October 2024 was unreasonable.*

*12 Under Section 85 of the 2004 Act, the respondent is required to take into account various factors when considering whether someone is a fit and proper person to be a landlord. One of the factors identified is whether a person has committed any offence involving drugs.*

*13 The Committee was accordingly required to take into account Mr Black's drug-related offence. It reached its decision while having regard to the submissions made by the appellant. It properly assessed all of the evidence before it and did not misdirect itself in law.*

*14 The respondent submits that the decision of 1 October 2024 was reasonable. The respondent further submits that the appellant has not identified an error of law by the Committee. In the circumstances, the application ought to be refused.*

11. Mr Harvey added that under the terms of section 85 of the Act that another of the factors the Respondent was entitled to take into account, when considering whether someone is a fit and proper person to be a landlord, were any crimes of dishonesty. The Applicant was also convicted of crimes of dishonesty in relation to a contravention of the Proceeds of Crime Act 2002, section 329. This could be construed as an additional factor which was taken into account in reaching their decision that the Applicant was no longer a fit and proper person to remain on the register of landlords.

12. Accordingly Mr Harvey invited the Tribunal to dismiss the application.

## **Reasons for Decision**

13. This application concerns a decision taken by the Licensing and Regulatory Committee of North Lanarkshire Council following a hearing of that committee which took place on 1 October 2024 and which was communicated to the Applicant on 15 October 2024. The Applicant did not attend the committee hearing and was provided with a written statement of reasons for the decision on 15 October 2024.

14. The Respondent's decision was not based on any error of law, or an incorrect material fact. The Respondent could not be said to have exercised their discretion in an unreasonable manner.

15. The Tribunal looked at the decision taken by the Respondent and determined that this was one which they were entitled to take on the information before them. Accordingly their decision stands.

16. The decision of the Respondent was reasonable in all the particular circumstances of the case. The landlord Mr Steven Black was convicted by the High Court of Justiciary of a serious offence under the Misuse of Drugs Act in respect of which he received a lengthy custodial sentence. There is no evidence before this Tribunal that this conviction does not still stand. There is no information that any appeal against conviction or sentence has been successful.

17. We were not persuaded that the Respondent had failed to take into account any relevant factor. They listed all of the representations made by the Applicant, which had been taken into account prior to any decision being reached.

18. The Tribunal also noted that the Applicant had failed to turn up to the CMD to argue her position any further , and indeed ran the risk that the application may be dismissed due to a want of insistence. The Tribunal decision is unanimous.

### **Right of Appeal**

**In terms of Section 92(5) of the 2004 Act, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland. The appeal must be made within the period of 21 days beginning with the day on which the decision appealed against was made.**

**Section 92(6) of the 2004 Act provides that the decision of the Upper Tribunal on an appeal is final.**

**Yvonne McKenna**

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**Legal Member/Chair**

**22 April 2025**

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**Date**