



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/24/1006

Re: Property at 33 MacKinnon Terrace, Irvine, KA12 9JH (“the Property”)

Parties:

Edgar Residential Property Ltd, The Hansen Company, The Old Forge 28 Field Road, Clarkston, Glasgow, G76 8SE (“the Applicant”)

Mrs Pauline Rielly (nee Bray), Mr Steven Rielly (nee Bray), 33 MacKinnon Terrace, Irvine, KA12 9LH; 33 MacKinnon Terrace, Irvine, KA12 9LH (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Applicant)

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

Background

1. By application dated 29 February 2024 the Applicant’s representatives Waddell and MacIntosh, Solicitors, Troon, applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondents’ tenancy of the property. The Applicant’s representatives submitted a copy of the tenancy agreement together with a rent statement, copy correspondence and other documents in support of the application.
2. By Notice of Acceptance dated 16 July 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 14 October 2024.
4. A CMD was held on 15 November 2024. The Applicant was represented by Ms Zoe Samaras from the Applicant's representatives. The Respondents did not attend nor were they represented. The Applicant's representative sought to amend the sum claimed at the CMD. As the amendment had not been intimated in accordance with Rule 14A of the Tribunal's Rules of Procedure the amendment was refused and the CMD adjourned to a later date.
5. By email dated 10 February 2025 the Applicant's representatives submitted further written representations to the Tribunal and requested a postponement. The Tribunal considered the postponement request but refused it.
6. A second CMD was held by teleconference on 11 February 2025. Neither party attended or was represented. The Tribunal adjourned the CMD to another CMD.

The Case Management Discussion

7. A third CMD was held by teleconference on 23 April 2025. The Applicant was not represented. The Respondent Mrs Pauline Rielly attended in person supported by Ms Arleen Todd.
8. In response to a query from the Tribunal Mrs Rielly said that the Applicant's representatives had recently written to her telling her that the application was calling before the Tribunal for the CMD so they were aware of the date and time. Mrs Rielly thought there was more than £8000.00 of rent due.
9. The Tribunal asked the Tribunal clerk to check to see if the Applicant's representatives had tried to join the CMD late but no call was waiting.

Reasons for Decision

10. One of the overriding objectives of the Tribunal is to avoid delay so far as compatible with the proper consideration of the issues. The Applicant's representatives previously sought to amend the sum claimed and when this was not in accordance with the rules were given an opportunity to do so in advance of the second CMD. They failed to do so and a second CMD had to be adjourned. The Applicant's representatives were then given a further opportunity to amend in advance of the third CMD and again failed to do so and not only that they again failed to attend the CMD.

11. Rule 27(2) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that:- 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 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 proceedings justly and fairly.
12. The Tribunal has concluded that the Applicant's representatives have been given every opportunity to submit an application to amend the sum claimed and to attend the CMD and their failure to do so shows a failure to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings justly and fairly. The Tribunal has therefore determined to dismiss the application.

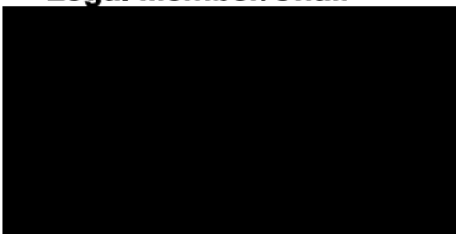
Decision

13. The application is dismissed.

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.

**Graham Harding
Legal Member/Chair**



**23 April 2025
Date**