



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 71 of the Private Housing  
(Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/24/5757**

**Re: Property at 13/4 Cadiz Street, Edinburgh, EH6 7BJ (“the Property”)**

**Parties:**

**Ms Rona Mackenzie, 10 A Newmarket, Isle of Lewis, HS2 0DS (“the Applicant”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member)**

**Decision (in absence of the parties)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to dismiss the application under Rule 27(2) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”).

**Background**

- 1 This is an application for a payment order under section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant sought a payment order in respect of unpaid rent.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 16 June 2025. The Tribunal gave notice of the CMD to the parties. Said notice was served upon the Respondent by sheriff officers on 16 April 2025. Both parties were invited to make written representations in advance of the CMD. The Tribunal received no written representations from the parties.

## **The CMD**

- 3 The CMD took place on 16 June 2025 at 2pm. Neither party joined the call. The Tribunal clerk attempted to contact the Applicant by telephone but there was no response. The Tribunal held the line open until 2.30pm to give parties an opportunity to join, before concluding the CMD.
- 4 The Tribunal subsequently determined to adjourn the CMD and issue a Direction requiring the Applicant to confirm whether she intended on proceeding with the application.

## **Further procedure**

- 5 On 19 June 2025 the Tribunal issued a Direction to the parties in the following terms:-

*“The tribunal, on its own initiative and for the purpose of making inquiries, gives the following Direction to the Applicant as to the conduct and progress of this Application in terms of Section 16 of Schedule 1 to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017:*

*The Applicant is required to provide:*

*1. Written confirmation as to whether (i) she wishes to proceed with the application, in which case a further CMD will be scheduled, or (ii) that the application can now be withdrawn.*

*The said documentation should be lodged with the Chamber no later than close of business on 4 July 2025.*

*The Applicant should note that, should she fail to provide a response to this Direction, the Tribunal may dismiss the application without further procedure. If she has any difficult understanding what is required of her, she should seek independent legal advice. There are details of advice agencies available under the Useful Links section of the Tribunal website.”*

- 6 A note of the CMD was issued along with the Direction, which reiterated that if no response was received to the Direction, the Tribunal would assume the Applicant did not wish to proceed with her application and the application would be dismissed.
- 7 The Tribunal received no response to the Direction from the Applicant.

## **Reasons for decision**

- 8 Rule 27(2)(a) of the Rules states that *“The First-tier 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*". The Applicant's absence at the CMD, and lack of response to the Direction, constitutes a failure to co-operate with the Tribunal in this case. The Applicant has failed to clarify her position regarding the application, despite the Tribunal having specifically required her to do so under the terms of the Direction. The Tribunal cannot justly reach a decision on the application without ascertaining the Applicant's position, and without the Tribunal having the opportunity to seek further information in order to satisfy itself that the Applicant has a valid claim. Based on the lack of response from the Applicant, the Tribunal can reasonably infer that she does not intend on taking this matter any further.

- 9 The Tribunal therefore determined to dismiss the application under Rule 27(2)(a).

### **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.**

# R O'Hare

9 July 2025

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Legal Member/Chair

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Date