



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 27 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”).**

**Chamber Ref: FTS/HPC/CV/24/4714**

**Re: Property at 11 Cleghorn Street, Dundee, DD2 2NQ (“the Property”)**

**Parties:**

**Mr James Gillon-Fergusson, Triangle Croft, Huntly Road, Nr Portsoy Banffshire, AB45 2YN (“the Applicant”)**

**Mr Leonard Livingstone, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Frances Wood (Ordinary Member)**

**Decision (in absence of the Applicant and the Respondent)**

**Decision**

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

**Background**

1. The Applicant lodged an application for a payment order. Various documents were lodged with the application. A related application for an eviction order was also submitted.
2. The Applicant was notified that a case management discussion (“CMD”) would take place by telephone conference call on 16 July 2025 at 10am and that he was required to participate. The Tribunal attempted to serve both applications on the Respondent by Sheriff Officer at the property. On arrival, the Sheriff Officers met with the Applicant who advised them that the Respondent had vacated the property and that he did not have a forwarding address for him. The Applicant confirmed that an eviction order was no longer required. In relation to this application, the Applicant only stated that he did not have a new address for the Respondent. The Sheriff Officers were unable to serve the

applications.

3. The Applicant did not contact the Tribunal prior to the CMD and did not withdraw either application or confirm if the payment application was to proceed. The CMD took place on 16 July 2025. Neither party attended or were represented.

### **Reasons for Decision**

4. Rule 27 of the Procedure Rules states: -

(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.

5. The Tribunal notes that the information provided by the Sheriff Officers appears to establish that an order for eviction is no longer required or sought. However, the Applicant has not notified the Tribunal if the payment application is to proceed or is withdrawn. As he also failed to attend the CMD, the Tribunal is satisfied that the Applicant has failed to cooperate with the Tribunal to such an extent that it is not possible to deal with the proceedings justly and fairly.

6. The Tribunal therefore concludes that the application should be dismissed.

### **Decision**

7. The Tribunal determined that the application should be dismissed in terms of Rule 27(2)(b) of the Procedure Rules.

### **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.**

# Josephine Bonnar