



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 (“the Act”)

Chamber Ref: FTS/HPC/CV/24/5623

Re: Property at 20 Castlelaw Crescent, Bilston, Midlothian, EH25 9SW (“the Property”)

Parties:

Mr David Murray, Shiplaw Farm Cottage, Eddleston, Peebles, EH45 8RB (“the Applicant”)

Ms Heather Bertram, Ms Megan Rose Bertram Boyd, The Old School House, 2 Pentland Road, Loanhead, Midlothian, EH20 9NU (“the Respondents”)

Tribunal Members:

Steven Quither (Legal Member)

Decision (in absence of the Applicant)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be dismissed in terms of Rule 27(2)(b) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”).

BACKGROUND

1. This an application for payment of rent arrears arising out of a Private Residential Tenancy (“PRT”) between the parties in respect of the Property commencing 16 February 2024.
2. The application was dated and submitted on 5 December 2024 and after being accepted by the Tribunal, a Case Management Discussion (“CMD”) was fixed for 27 June 2025 at 10am and intimated to the Applicant’s representative as stated in the application, (Carolyn Gourlay of RentLocally Ltd, 109/1 Swanston Road, Edinburgh EH10 7DS) by letter of 29 March 2025, as well as to the Respondents by letters of the same date.

3. Prior to the CMD, by email of 5 June 2025, Ms Gourlay advised the Tribunal that RentLocally Ltd no longer represented the Applicant in this application and accordingly would not be pursuing same.

CASE MANAGEMENT DISCUSSION on 27 JUNE 2025

4. The CMD duly took place by teleconference on 27 June 2025. For various reasons, it did not start till about 10-25am and with only the Respondents in attendance.
5. They seemed somewhat surprised by there being no representation of or attendance by the Applicant.
6. The Tribunal considered the terms of said intimation letter to the Applicant's representative of 29 March 2025, noting in particular its confirmation of the date and time of the CMD, its highlighting of the requirement for the representative to take part in the CMD and its confirmation that lack of participation in same would not necessarily prevent the Tribunal making a decision. It also considered the terms of said email of 5 June 2025.
7. It also took account of the fact that intimations in virtually identical terms as above stated had been sent to the Respondents, both of whom were in attendance.
8. It also relied upon its own special expertise in matters relating to representatives'/agents' representation of clients/customers, in terms of Rule 2(2)(d) of the Rules. Having done so, it was satisfied, on the balance of probabilities and in the absence of any information to the contrary, that it was probable that the Applicant's Representative had advised the Applicant of the date and time of today's CMD and her subsequent withdrawal from acting for him and advised him to make such other arrangements as he considered appropriate for same. However, for some reason, he had not attended.
9. In these circumstances, the Tribunal therefore considered whether it was entitled to dismiss the application under Rule 27(2)(b) of the Rules, on the basis that the Applicant, having ostensibly at least, been aware of the date and time of the CMD, failed to attend same.
10. Said Rule states:--

"Dismissal of a party's case

27.—(1) The First-tier Tribunal must dismiss the whole or a part of the

proceedings if the First-tier Tribunal does not have jurisdiction in relation to the proceedings or that part of them.

(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.”

11. In the circumstances ie the lack of attendance by or on behalf of the Applicant, the Tribunal decided that the Applicant had failed to co-operate with it to such an extent that it could not then comply with its overriding objective of dealing with the proceedings justly and fairly and that accordingly the application fell to be dismissed in terms of said Rule 27(2)(b).

12. In confirming its decision to the Respondents, the Tribunal advised them that there were certain avenues which the Applicant might pursue in light of this decision, but that any such decision was a matter for the Applicant.

13. It also advised and confirmed, in response to an enquiry from them, that if they considered there were other matters to be resolved between them and the Applicant, they also had certain avenues to pursue same, upon which they would need to make further enquiry and seek further advice of their own.

DECISION

14. To dismiss the proceedings under Rule 27(2)(b) of the 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.

S. Quither

Legal Member/Chair

9 July 2025
Date