



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 48 of the Housing (Scotland) Act 2014 (“the 2014 Act) and Rule 95 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/LA/24/5088

Parties:

Dr Calum Knox ("the Applicant")

Lanarkshire Property Management Ltd (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Mary Lyden (Ordinary Member)

Decision

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

Background

1. The application submitted on 6 November 2024 was an application under Section 48 of the 2014 Act, namely an application to enforce the Letting Agent Code of Practice (“LACOP”) against the Respondent. Several breaches of various sections of the LACOP were alleged by the Applicant. Supporting documentation was submitted with the application, and subsequently.
2. Detailed written representations were lodged by the Respondent on 11 April 2025. Further representations were lodged in response by the Applicant on 9 May 2025, 21 May 2025 and 27 May 2025. including a copy of the Applicant’s tenancy agreement, his prior notification to the Respondent of his intention to make this Tribunal application by email dated 21 August 2024 and their response dated 22 August 2024. On 9 June 2025, confirmation was received from the Respondent’s solicitor that they would be acting on behalf of the Respondent in connection with the Tribunal proceedings. They also lodged a First Inventory of Productions on behalf of the Respondent.

3. Parties were notified on 21 March 2025 of the date, time and joining details in respect of a Case Management Discussion ("CMD") scheduled to take place on 17 June 2025 at 10am. Both parties had replied indicating their intention to attend the CMD.

Case Management Discussion - Summary of Discussion

4. The CMD took place by telephone conference call on 17 June 2025 at 10am. Only the Respondent's solicitor, Mr Craig from DAC Beachcroft Scotland LLP was in attendance, so the Tribunal delayed the commencement of the CMD for 5 minutes to see if the Applicant would join late. He did not do so. Accordingly, on the Legal Member's instructions, the Tribunal Clerk tried to contact the Applicant by telephone but this was unsuccessful.
5. There was some brief discussion regarding the written representations lodged by both parties prior to the CMD and it was noted from Mr Craig that there has been no recent contact directly between parties so he was unaware what the Applicant's position was. He was aware that there was another application before the Tribunal in which the landlord was seeking 'right of entry' to the Property, linked to a proposed eviction based on rent arrears owing, and referred to the documentation the Applicant had recently lodged in connection with the current application, making reference to the other case. Mr Craig's understanding was that the 'right of entry' application had either been paused or dismissed, as Dr Knox had intimated that he was leaving the Property at the end of June. It is not known if this has had a bearing on his position in respect of the current application.
6. Mr Craig is aware that the Tribunal can dismiss an application in these circumstances, in terms of the Procedure Rules, or adjourn/continue for clarification to be sought as to the Applicant's non-attendance at the CMD.
7. The Tribunal Members adjourned to discuss the matter in private. It was checked that the Applicant had been properly and timeously notified of the CMD, which he had. On re-convening, the Legal Member advised that the Tribunal had decided, in the circumstances, to adjourn the CMD meantime to a later date, in order to seek clarification from the Applicant as to whether he is wishing to proceed with the application and, if so, his explanation for non-attendance today. The Tribunal would issue a Direction to the Applicant in this regard and would also seek further representations from him, if he intends to proceed. There were some further discussions regarding possible future procedure and it was agreed that Mr Craig would shortly send in a list of dates to be avoided for a further CMD. It was confirmed that paperwork would follow the CMD and would be issued to both parties.
8. Mr Craig was thanked for his attendance and the CMD concluded.

Direction/Further Procedure

9. Following the CMD, the application was adjourned meantime to a further CMD, date and other details to be arranged. A CMD Note reflecting the discussions at the CMD was issued to parties. A Direction was also issued to the Applicant, on 18 June 2025, requiring a response within 14 days, clarifying his position in respect of the application. The Direction stated as follows:-

*“The **Applicant** is required to confirm in writing:-*

- 1. If he wishes to withdraw this application or proceed with the application; and, if wishing to proceed an explanation for his non-attendance at the CMD on 17 June 2025, together with any supporting information in this regard, such as a medical report; and*
 - 2. If he wishes to proceed with the application, his further written representations in response to the representations lodged by the Respondent on 11 April 2025, together with the Inventory of Productions lodged on behalf of the Respondent on 9 June 2025; said representations to focus on the terms of the particular paragraphs of the LACOP which he alleges the Respondent has breached, providing clear descriptions as to how he thinks the Respondent letting agent has breached each paragraph, linking to any relevant supporting evidence, and ensuring that he is focusing on the conduct/failings/legal responsibilities of the letting agent Respondent (as opposed to his landlord); and to remove any paragraphs of the LACOP from his application which he no longer wishes to insist upon.”*
10. There was no response to the Direction by the Applicant within the time-limit stated. Accordingly, the Tribunal instructed that a reminder be issued to the Applicant on 25 July 2025. The reminder referred to the Direction and its time-limit for response and requested that the Applicant respond within 7 days, failing which it would be assumed by the Tribunal that the Applicant no longer wished to proceed with his application and that the application may then be refused. No response has been received from the Applicant.

Reasons for Decision

1. The Tribunal considered the terms of the application and written submissions lodged previously by the Applicant, the oral representations made on behalf of the Respondent at the CMD and the Applicant's failure to attend the CMD, comply with the Direction or engage with the Tribunal since.
2. The Tribunal determined that the application should be dismissed in terms of Rule 27(2) of the Regulations which is as follows:-

“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."*

3. The Tribunal's decision was unanimous.

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.

Legal Member/Chair

19 August 2024
Date