



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/EV/24/3740

Property at 13 Cadham Court, Glenrothes, KY7 6PH (“the Property”)

Parties:

Mr John McDowell, 10 Tofthill, Glenrothes, Fife, KY7 6QU (“the Applicant”)

Mr Michael Burns, 13 Cadham Court, Glenrothes, KY7 6PH (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Applicant and the Respondent)

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 an eviction order in terms of section 51 and ground 12 of schedule 3 of the 2016 Act. The application was served on the Respondent, and the parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 28 April 2025. Prior to the CMD, the Applicant lodged an updated rent statement.
2. The CMD took place on 28 April 2025. The Applicant was represented by Mrs King. The Respondent participated. Mrs King told the Tribunal that the Applicant would like the CMD to be continued. The Respondent had entered into a repayment arrangement in December 2024 and so far, had adhered to the arrangement. He was paying £600 per month. This covered the rent charge of £475 with the remainder being applied to the arrears. As it was still early days, the Applicant was not ready to withdraw the application. Mr Burns

confirmed that he was agreeable to the CMD being continued.

3. The Tribunal confirmed that the CMD would be continued to a date after 1 September 2025. It was noted that, if the payments were maintained, the Applicant would notify the Tribunal and confirm if the application was to be withdrawn. If the payments were not maintained, the application would proceed.
4. The parties were notified that a further CMD would take place on 8 October 2025 at 10am by telephone conference call.
5. On 2 October 2025 the Applicant's representative sent an email to the Tribunal which stated that the Respondent had adhered to the repayment plan and that the case could be "dismissed". The caseworker replied on 3 October 2025 to ask if the application was withdrawn and stated that the CMD would proceed if the application was not withdrawn. No response was received to the email or to a reminder sent on 7 October 2025.
6. The CMD took place on 8 October 2025. Neither party attended.

Reasons for Decision

7. 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.
8. The Applicant did not withdraw the application although his representative had been notified at the previous CMD and by email on 3 and 7 October 2025, that this was required for the case to be closed. The Applicant also failed to attend the CMD, having been notified that it would proceed if the application was not withdrawn.
9. In the circumstances, 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. The Tribunal concludes that the application should be dismissed.

Decision

10. 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, Legal Member

8 October 2025