



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)

Reference number: FTS/HPC/PR/23/4351

**Re: Innerwick, Ferntower Road, Crieff, PH7 3DH
("the Property")**

The Parties:

Mr Ewan McLellan, 24 Drummond Terrace, Crieff, PH7 4AF ("the Applicant")

Daryl Van Blerk, of an unknown address ("the Respondent")

Tribunal Members:

Pamela Woodman (Legal Member) and Mary Lyden (Ordinary Member)

Decision: The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the case be dismissed.

1. Various directions have been issued in these proceedings, the last of which (fourth directions) are included in the Appendix to this decision for ease of reference.
2. The fourth directions explicitly noted (so that the Applicant was on notice) that the proceedings would potentially be dismissed if the Applicant failed to comply with those directions.
3. The Applicant has failed to comply with the fourth directions (and earlier directions).
4. Despite various directions on this point (both in the fourth directions and in earlier sets of directions), the Applicant has failed to provide a current residential address for the Respondent at which the Respondent may validly be served with the papers in these proceedings.

5. Accordingly, the Tribunal has determined that the proceedings be dismissed in terms of rule 27(2) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (as amended).

Right of Appeal

In terms of Section 46 of the Tribunals (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.

P S Woodman

16 December 2025

Legal Member/Chair

Date

APPENDIX

First-tier Tribunal for Scotland (Housing and Property Chamber)

FOURTH NOTICE OF DIRECTION made under:

Rule 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“HPC Rules”) which are set out in the schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended

The Scottish Tribunals (Offences in Relation to Proceedings) Regulations 2016

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NOTICE TO THE PARTIES

The (first) notice of direction dated 23 September 2024 (“**First Directions**”) and the second notice of direction dated 1 January 2025 (“**Second Directions**”) were sent to, and received by, the Applicant. They were to be sent to the Respondent after the Applicant had complied with direction 1.a., as stated in each of those two notices of directions respectively. The Respondent has twice failed to comply with directions, by failing to comply with both the First Directions and the Second Directions.

Whilst the Second Directions noted that the Applicant was being given a further (and last) opportunity to comply with the directions, the Applicant may not (at that time) have been aware of the implications of failing to comply. Therefore, in the interests of dealing with matters justly and fairly (for both parties), the Applicant was given a final opportunity to comply and **the Applicant was put on notice (by the third notice of direction dated 20 March 2025 (“Third Directions”)) that, should the Applicant fail to comply with the Third Directions in full, then the whole proceedings under case reference FTS/HPC/PR/23/4351 could be dismissed by the Tribunal in terms of HPC Rule 27.**

Similarly, the Applicant is on notice of the implications of any failure to comply with this fourth notice of direction (“**Fourth Directions**”) in full.

No further extension of time will be granted to the Applicant:

(a) in relation to direction 1.a. below, unless the Applicant is able to demonstrate to the Tribunal (with supporting evidence) that there have been exceptional circumstances which are outwith the control of the Applicant and which have directly prevented compliance within that timescale, and the Applicant has applied for a further extension before the relevant deadline for compliance; and

(b) in relation to direction 1.b. below.

The tribunal, on its own initiative and for the purpose of enabling service on the Respondent and otherwise making inquiries, gives the following direction to the parties as to the conduct and progress of this application in terms of rule 16 of the HPC Rules:

1. The **Applicant** is to send to the tribunal's administration team, each of the following:

a. By no later than **5pm on Friday 5 September 2025**:

- i. details of the **current residential** postal address of the Respondent; AND
- ii. details of the enquiries undertaken after 1 January 2025 in order to check and/or establish the **current residential** address of the Respondent, including (if engaged) the report of any third party tracing agent; AND
- iii. evidence of sending the details in directions 1.a.i. and 1.a.ii. to the Respondent (in addition to sending them to the tribunal's administration team) which, for example, could be by copying the Respondent in to the e-mail sending those details to the tribunal's administration team.

As previously stated -

- *In the Second Directions: a business address will not be acceptable and, in any event, it is noted that, according to Companies House, the registered office address of Mind Room Consultants Limited changed on 5 July 2024. It is for the Applicant (and not the Tribunal's administration team) to establish the current residential address for service of case papers and other communications on the Respondent.*
- *In the notes on a case management discussion dated 23 September 2024: it was noted that the Respondent has not provided consent (to the tribunal's administration team) to receive communications by e-mail and so, in accordance with the tribunal administration team's policy and HPC Rule 6(5), the tribunal's administration team is not in a position to use the e-mail address provided by the Applicant for the Respondent for any communication by the tribunal's administration team.*

b. By no later than **5pm on Friday 5 September 2025**, in terms of HPC Rule 16(3)(e):

- i. a summary of the evidence to be put forward by the Applicant at the hearing, including any written submissions which the Applicant wishes the tribunal to consider in advance of the hearing.
- ii. a paginated and indexed bundle of all the documents to be relied on by the Applicant at the hearing.

For the avoidance of doubt, (I) the index should list the page number(s) for each such document, and (II) each page of the bundle should be numbered - page numbers may be added in handwriting if the Applicant does not have software to add them electronically.

- iii. if the Applicant wishes to call any witness(es) to give evidence at the hearing, the name and contact details of each witness whom the Applicant has established is willing to be called and to appear as a witness at the hearing.

2. Subject to the Applicant complying in full with directions 1.a.i., 1.a.ii., and 1.a.iii. in these Fourth Directions, the **Respondent** is to provide to the tribunal's administration team, the following by no later than **5pm on Monday 13 October 2025**:

- a. if the Respondent wishes to call any witness(es) to give evidence at the hearing, the name and contact details of each witness whom the Respondent has established is willing to be called and to appear as a witness at the hearing.
- b. a summary of the evidence to be put forward by the Respondent at the hearing, including any written submissions which the Respondent wishes the tribunal to consider in advance of the hearing.
- c. a paginated and indexed bundle of all the documents to be relied on by the Respondent at the hearing.

For the avoidance of doubt, (I) the index should list the page number(s) for each such document, and (II) each page of the bundle should be numbered - page numbers may be added in handwriting if the Respondent does not have software to add them electronically.

Such evidence should include any available information and/or documentation (including, without limitation, e-mails) relating to:

- i. the Respondent's intention to live in the Property, for how long, and when that intention was formed;
- ii. the Respondent's decision to sell the Property and when that

decision was made;

- iii. why there was a change in approach from one of intending to live in the Property to one of selling the Property;
- iv. the address(es) of the only or principal home of the Respondent from 16 September 2023 to date (examples might include council tax bill(s), utility bill(s), lease documentation, etc);
- v. the status of the Property as occupied or unoccupied (whether by the Respondent or any other person) from 16 September 2023 to the date of sale (examples might include notification(s) to the local authority, council tax bill(s), utility bill(s), etc);
- vi. **IF** the Respondent will seek to establish that the decisions taken by him (including any change of decision) were to alleviate financial hardship, the Respondent should provide sufficient financial information to establish that this was the case. This information might include:
 - 1. details of any secured loan on the Property and monthly repayments.
 - 2. details of any other costs incurred by the Respondent in connection with the Property.
 - 3. details of any other property/properties owned by the Respondent together with details of secured loans and monthly payments in respect of such property/properties including loan repayments and others.
 - 4. the employment status of the Respondent and whether employed, self-employed or unemployed.
 - 5. net income of the Respondent:
 - a. wages and whether paid weekly, fortnightly, four weekly or monthly.
 - b. any bonus or commission.
 - c. any state benefits and whether paid weekly, fortnightly, four weekly or monthly.
 - d. tax credits.
 - e. any other income.
 - 6. outgoings of the Respondent and state whether weekly, fortnightly, four-weekly, monthly or annually:
 - a. mortgage/rent.
 - b. council tax.
 - c. utilities - gas, electricity etc.
 - d. property insurance relating to the Respondent's home.
 - e. life insurance/pension contributions.

- f. food.
- g. mortgage repayments in respect of the Respondent's home.
- h. loan repayments.
- i. childcare/maintenance costs.
- j. essential travel costs.

7. assets of the Respondent:

- a. value of heritable properties owned by the Respondent.
- b. amount of savings held by the Respondent.
- c. value of shares/investments held by the Respondent.
- d. any other assets owned by the Respondent.

8. debts of Respondent other than loans secured on the Property or other properties owned by the Respondent:

- a. details of debt owed by the Respondent including amounts, repayment terms and reasons for incurring the debt.
- b. evidence of creditors pressing for repayment of any debt.

9. details of dependents living with the Respondent:

- a. spouse/ partner.
- b. children.
- c. any other dependent.

It is likely that, in considering any submissions put forward regarding the alleviation of financial hardship, the tribunal will have regard to the whole financial circumstances of the Respondent including any other household income. The Respondent should take this into account when responding to the direction.

The Respondent may choose not to provide information from the above list or be selective from it. However, it would be for the Respondent to provide the necessary evidence to show that decisions were made to alleviate financial hardship if he seeks to assert that position.

A party should redact sensitive information, such as account numbers, sort codes, etc before submission of any document as the information forms part of the evidence and is circulated to the other party.

Reason for Direction

To remind the Applicant that he is on notice of the potential dismissal of the proceedings if the Applicant does not comply with these Fourth Directions.

To enable the case papers and other communications from the tribunal's administration team validly to be served on the Respondent now. The address of the Property is not a valid address for service on the Respondent now, given that the Property was sold on 7 June 2024. Without a valid address for service and the tribunal being satisfied that the relevant case papers and other communications have validly

been served on the Respondent, the proceedings could be dismissed.

To provide further information to assist consideration of the case.

Each of the parties is hereby given notice of the terms of the Scottish Tribunals (Offences in Relation to Proceedings) Regulations 2016, which state that in any proceedings before the First-tier Tribunal it is an offence for any person to—

- a) make a false statement in an application in a case;**
- b) alter, conceal or destroy, or fail to produce, something that is required to be produced in accordance with Tribunal Rules; or**
- c) fail to attend or give evidence, when required to do so in accordance with Tribunal Rules.**

A person who commits an offence as described above is liable —

- a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both);**
- b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine not exceeding £5,000 (or both).**

P S Woodman

Chairperson of the tribunal

Dated: 24 July 2025