

Reason for Decision.

1. This is an application for an order under Rule 43 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (the Rules) and section 17 of the Property Factors (Scotland) Act 2011 (“the 2011 Act”). The Applicant alleged breaches of the Property Factors Code of Conduct by the Respondent.
2. The application, dated 1 September 2025, was made on 5 September 2025. It followed the respondent ceasing to be the factor of the development in March 2025. It was referred to a case management discussion (CMD) to be held by teleconference today. The Tribunal gave notice of the CMD to the parties on 17 March 2026 in accordance with Rule 17(2) of the Rules.
3. The case called at 10am and there was no appearance by the applicant. Other business was attended. Just before 1pm the applicant had still not joined the call.
4. The respondent asked for the case to be dismissed. He said this was one a number of concerted complaints which had been encouraged and promoted by same person in the development on the promise that compensation of £1,500 would be awarded if complaints were made. Eighteen were. The respondent had been involved in Sheriff Court proceedings, as well as First and Upper Tier tribunal hearings relating to matters arising at this development. They were using resources in attending to these matters.
5. We must seek to give effect to the overriding objective when exercising any power under the Rules. The overriding objective is to deal with the proceedings justly. This includes dealing with the proceedings in a manner which is proportionate to the complexity of the issues and the resources of the parties; seeking informality and flexibility in proceedings; ensuring, so far as practicable, that the parties are on equal footing procedurally and are able to participate fully in the proceedings; and avoiding delay, so far as compatible with the proper consideration of the issues.

6. The applicant had not returned the response form. No written representations were received. No application for an adjournment or postponement of the hearing had been received. This was one of five related cases to call today. Progress could only be made in two of them due to parties not attending. By failing to engage with the tribunal, or appear today the applicant has failed co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly. If the CMD was continued the respondent would be required to expend further resources. More importantly the failure of the applicant to attend today has caused delay which is not compatible with the proper consideration of the issues.

7. The applicant had specifically requested that the case be considered along with other case involving other homeowners at the same development. Two of those cases have now been sent to a hearing. It is unlikely that a date for a continued CMD would be within the next three months. Dates for case are present being fixed for the end of August 2026. If a hearing was then required to be fixed it would be another 3 or 4 months before that took place.

Review of a decision

The First-tier Tribunal may either at its own instance or at the request of a party review a decision made by it except in relation to applications listed in rule 37(3)(b) to (j)(b), where it is necessary in the interests of justice to do so.

An application for review under section 43(2)(b) of the Tribunals Act must—

- (a) be made in writing and copied to the other parties;**
- (b) be made within 14 days of the date on which the decision is made or within 14 days of the date that the written reasons (if any) were sent to the parties; and**
- (c) set out why a review of the decision is necessary.**

Chairperson of the tribunal
Dated: 1 May 2026