



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014.**

**Chamber Ref: FTS/HPC/CV/18/2573**

**Re: Property at 17B Millcroft Road, Carbrain, Cumbernauld, G67 2QE (“the Property”)**

**Parties:**

**Tradecast Building Services Ltd, C/O Buchanan Macleod, 180 West Regent Street, Glasgow, G2 4RW (“the Applicant”)**

**Mr Michael Bradley, 17B Millcroft Road, Carbrain, Cumbernauld, G67 2QE (“the Respondent”)**

**Tribunal Members:**

**Lesley A Ward (Legal Member) and Janine Green (Ordinary Member)**

**Decision (in absence of the Applicant and Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismissed the application in accordance with rule 27 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017 as there was no appearance by either party.**

### **Reasons**

This was a hearing in connection with an application to the tribunal erroneously made in terms of rule 111 which, given the dates on the two leases lodged, should have been made under rule 70. of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017, ‘the rules’. There was a second application before the tribunal in terms of rule 65 which was also due to be heard today.

There was no appearance by the applicant or the applicant’s solicitors at today’s hearing. There was no appearance by the respondent either. The respondent was served with papers for the hearing by sheriff officers on the 5 December 2018. The

applicant's solicitor was sent letters on 4 and 28 December 2018 regarding the hearing date. The tribunal was satisfied that both parties were aware of the hearing date.

The tribunal considered how best to proceed in terms of the overriding objective. The tribunal had numerous questions for the applicant's solicitors arising out of its perusal of the application. Even if they had attended the hearing and the application had been undefended the tribunal would have been unable to grant the order sought. This is because the application is not in accordance with the correct rule. There are other problems with the application:

1. The application refers to rent arrears of £3325. The tribunal does not consider that the rent account lodged gives clear details of how this sum is arrived at, to enable fair notice to be given to the respondent.
2. A previous hearing was adjourned to enable the parties to reach an agreement. No information has been provided regarding any payments of rent since the application was made.

In accordance with the overriding objective and also in terms of rule 27, the tribunal decided the fairest way to proceed is to dismiss the application. It is open to the applicant to raise a fresh application with the correct information.

**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.**

Lesley Ward

7 January 2019

Lesley A Ward Legal Member

\_\_\_\_\_  
Date