

# Housing and Property Chamber

## First-tier Tribunal for Scotland

---



### Regulation 38 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017

**Chamber Ref:** Reference number: FTS/HPC/EV/22/2173

**Property:** 97 Station Road Banchory, AB31 5YP (“The property”)  
**Parties:**

The Cook Factor Ltd, Schoolhill House, Cullweliw, Westhill, Aberdeenshire, AB32 6XP (“the Applicants”)

Austyn Middleton Robb and Elizabeth Jane Walker, residing together at 107 Ruthrieston Circle, Aberdeen, AB10 7LB (“the Respondents”)

#### **Tribunal Members:**

**Paul Doyle (Legal Member)**  
**Gerard Darroch (Ordinary Member)**

#### **Decision**

The Respondent’s Application for permission to appeal against the Tribunal’s decision dated 8 March 2023 is refused.

#### **Reasons for decision**

1. By email dated 4 April 2023 the respondent seeks permission to appeal the decision of the First-tier Tribunal for Scotland, Housing and Property Chamber, dated 8 March 2023. The grounds of appeal are:

I presume this is the decision and would very much like to appeal even though I haven’t had a chance to go through the document in full. It does however seem that full payment has been granted to the other party, even though throughout the case, the gentleman leading spoke of reduced amount regards the claim!?! Some of the points raised in the case have not been consistent and I will have a look at the documents that you have emailed.

As above I really thought this document would have been sent out in the post!?

... I would like a legal professional to have a look over the documents as we have not had this luxury during the case as we could not afford this professional help.

2. An appeal can only competently be made on a point of law. The respondent’s application for permission to appeal does not identify an error of law.

3. A Case Management Discussion took place before the Tribunal by telephone conference at 2.00pm on 12 October 2022. At that Case Management Discussion, the respondents did not dispute that when their tenancy ended on 24 January 2022 arrears of rent totalling £7,641.92 had accumulated. The respondents argued that they were entitled to an abatement of rent. The case management discussion was continued to allow the respondents to lodge a written counterclaim.

4. The respondent lodged detailed written representations on 9 December 2022. The applicant submitted two inventories of productions.

5. A second Case Management Discussion took place before the tribunal by telephone conference on 9 December 2022. Immediately before the case management discussion the respondents lodged their counterclaim.

6. The case was continued to an evidential hearing. The evidential hearing took place at 10am on 8 March 2023 by telephone conference. The Applicants were represented by Ms C Mullen of TC Young, solicitors. The respondents were present but were unrepresented. Mr Robb spoke for both respondents. We heard oral evidence from Mr Robb for the respondents and from Mr Cook for the applicants.

7. At paragraph 7 of the tribunal's decision and statement of reasons, the tribunal made detailed findings in fact. Between paragraphs 8 and 19 the tribunal provided reasons for reaching their decision.

8. The respondents do not raise any specific challenge to the tribunal's findings in fact nor to the tribunal's reasons for their decision. The respondents say they want to appeal but do not specify any relevant grounds of appeal.

9. The application for permission to appeal does not identify an arguable error of law. The application is simply an unreasoned disagreement with the facts as the tribunal found them to be, and an attempt to relitigate this appeal.

10. The First-tier Tribunal took correct guidance in law and made evidence-based findings of fact before reaching conclusions well within the range of available reasonable conclusions. The grounds of appeal do not identify an arguable error of law. Permission to appeal is refused.

## **Decision**

Permission to appeal is refused in terms of reg38(3) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

## **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the First-tier Tribunal may appeal to the**

**Upper Tribunal for Scotland on a point of law only. Permission to appeal must be sought by application to the Upper Tribunal within 30 days of the date this decision is sent to the parties.**

Signed *Paul Doyle*  
Legal Member

24 April 2023

