

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**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 Rules of Procedure 2017**

**Chamber Ref: FTS/HPC/EV/20/1431**

**Re: Property at 14 Niddrie Road, Glasgow G42 8NS (“the Property”)**

**Parties:**

**Nithsdale Properties, 96 Waverley Street, Glasgow (“the Applicant”),**

**Knights Estate Agents, 563 Pollokshaws Road, Glasgow G41 2QQ (“the Applicant’s Representative”) and**

**Ms Vhairi McLees, 14 Niddrie Road, Glasgow G42 8NS (“the Respondent”)**

**Tribunal Member:**

**G McWilliams- Legal Member**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Application be dismissed, in terms of Rule 27 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).**

**Background**

1. The Applicant applied under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”) for an Eviction Order. The Application proceeded on the ground of rent arrears.
2. A Case Management Discussion (“CMD”) was scheduled to take place on 29<sup>th</sup> September 2020. The Applicant’s Representative sent an email to the Tribunal on 24<sup>th</sup> September 2020 and stated that the Respondent’s arrears of rent had been paid and that the Applicant was content for the Respondent to continue residing in the Property. The Applicant sought a postponement of the CMD for a period of 6 months to monitor the operation of the parties’ tenancy agreement. The postponement request was refused. On 25<sup>th</sup> September 2020 the

Applicant's Representative sent another email to the Tribunal seeking a postponement of the CMD, for several weeks, as they were unable to attend on 29<sup>th</sup> September 2020. The Tribunal granted this application and sought that the Representative confirm, in writing within 14 days, whether or not the Applicant now wished to withdraw the Application, in terms of Rule 15 of the 2017 Rules. On 13<sup>th</sup> October 2020 the Applicant's Representative sent a further email to the Tribunal again requesting that the Application be postponed to monitor the operation of the parties' tenancy agreement. The Tribunal sent a reply to the Representative, on 13<sup>th</sup> October 2020, and stated that they did not consider it appropriate to postpone proceedings as the Applicant had confirmed that all rent arrears had been paid and agreement had been reached for the Respondent to remain in the Property. The Tribunal further stated that they considered that the most appropriate way to proceed was for the Application to be withdrawn, on the basis that another Application can be submitted if the Applicant subsequently believes that they have grounds for fresh action. The Tribunal, in addition, stated that if the Application was not formally withdrawn within 7 days the Tribunal's intention was to dismiss the Application. The Applicant's Representative has not replied to the Tribunal's email sent on 13<sup>th</sup> October.

### **Reasons for Decision**

3. The Applicant has confirmed that the Respondent's rent arrears have been paid and that the Applicant has agreed with the Respondent that the latter should continue residing in the Property. The parties' tenancy agreement is continuing. The Applicant no longer seeks the grant of an Eviction Order which is the order sought in the Application. In these circumstances, and with regard to the Tribunal's overriding objective to deal with proceedings justly, set out in Rule 2 of the 2017 Rules, the Tribunal determined that the Application should be dismissed in terms of Rule 27 of the 2017 Rules. The Tribunal determined that it is not just to postpone proceedings when the order sought is no longer insisted upon.

### **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.**

**G McWilliams**

**27th November 2020**

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**Legal Member**

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**Date**