

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988.**

**Chamber Ref: FTS/HPC/EV/18/2572**

**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) Regulations 2017 as there was no appearance on behalf of either party.**

**Reasons**

This was a hearing in connection with an application to the tribunal in terms of rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017, ‘the rules’ and s18 of the Housing (Scotland) Act 1988, ‘the Act’. The application was made to the tribunal on 27 September 2018. There was a second application before the tribunal, erroneously made in terms of rule 111 (tribunal reference FTS/HPC/CV/18/2573) which, given the dates on the two leases lodged, should have been made under rule 70.

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

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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 most recent notice to quit (there are three with the application and two appear invalid) does not expire until tomorrow, ie 8 January 2019.

There are other problems:

1. There is no rent schedule attached to the AT6. The applicant's agents were asked for this and they made a response to the tribunal administration which the tribunal sitting today don't understand.
2. There is no copy of the first inventory of productions.
3. The rent statement which forms part of the third inventory is not clear and does not give a clear indication of when the rent arrears accrued.
4. There appear to be two leases and the most recent lease, which we assume is being founded upon, is not signed.
5. There is no information regarding the housing benefit position. This is referred to in the copy text messages lodged but no other information is given.

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.

### **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal.**

Lesley Ward

7 January 2019

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Lesley A Ward Legal Member

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Date