

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)  
Chamber Ref: FTS/HPC/EV/21/0816**

**Re: Property at 25 2L Morgan Street, Dundee, DD4 6QB (“the Property”)**

**Parties:**

**Mr Richard Bailey, 6 Castle Gogar Rigg, Edinburgh, EH12 9FP (“the Applicant”)**

**Mr Ryan McCallum, Unknown, Unknown (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision (in absence of the Parties)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. The Applicant is the landlord of the Property, the Respondent being the tenant;
2. Via his letting agents the Applicant presented an application to the Tribunal seeking an order for eviction based upon anti-social behaviour of the Respondent (ground 14 of schedule 3 of the 2016 act);
3. A Case management Discussion was held on 7 June 2021. The Applicant was represented by Miss H Young of Rockford Properties. The Respondent did not participate;
4. Miss Young requested that the Tribunal grant an order for eviction;
5. The Tribunal did not consider that it was in a position to do so. While the application was supported by various emails alluding to anti-social behaviour on the part of the Respondent, the emails were all anonymised and large parts of the information appeared to be speculation, some of it relating to other persons who attended at the tenement block rather than directly relating to the Respondent. In the circumstances, the Tribunal felt that it could not grant the significant order requested – an eviction order- on the basis of the information before it;
6. The Tribunal thereafter considered the best way to proceed. Having considered the matter the Tribunal concluded that it was appropriate to fix a Hearing. While a further Case Management Discussion could have been fixed, prior to which detailed statements of witnesses could have been lodged, the Applicant had a concern that if the identity of the witnesses was made

known to the Respondent it could cause some difficulties for those witnesses;

7. While the Tribunal was not willing to proceed on the basis of anonymous information, it considered that fixing a hearing was the most appropriate way to proceed for the following reasons:-
  - The Respondent did not participate in the case management discussion and he may not participate in the hearing;
  - That being so, if the witnesses were to give evidence by way of teleconference, while their identities can be made known to the Tribunal, their identities may still be unknown to the Respondent;
  - Given the vague and speculative nature of some of the comments within the emails already submitted, it is appropriate that the Tribunal have the opportunity of making any further enquiry it sees fit of any witnesses called;
8. The Tribunal issued a direction that the Parties were to intimate any dates to be avoided on behalf of witnesses or Parties by close of business on Monday 21st June 2021 and that a list of witnesses to be called by either Party is intimated to the Tribunal no more than two weeks prior to any Hearing subsequently assigned;
9. A hearing was assigned for 6 August 2021 at 10am;
10. The decision of the Tribunal at the Case Management Discussion, the date of the Hearing and the Direction were served on the Parties by Post. Service on the Respondent failed. The Tribunal thereafter ordered service on the Respondent by Sheriff Officer. Service again failed, the Sheriff Officers reporting that the Respondent had vacated the Property which was, in fact, now boarded up;
11. The Tribunal made enquiry of the Applicant's representatives as to whether the Respondent had removed from the Property and, if so, whether the Applicant was still insisting on the application for an order for eviction. No response was received;

## **THE HEARING**

12. The Hearing was conducted by teleconference;
13. Neither Party participated in the Hearing. The Respondent, of course, did not know about the Hearing as service upon him failed. The Applicant was aware of the Hearing;
14. No evidence was led. No motion for an order for eviction was presented;
15. In the circumstances, the Tribunal dismissed the application;

## **REASONS FOR DECISION**

16. The Applicant did not participate in the Hearing and, therefore, there was no motion for an order for eviction before the Tribunal;
17. The Applicant had not complied with the Direction issued by the Tribunal;
18. The Applicant had not responded to a reasonable enquiry made after receipt of information from Sheriff officers that the property was empty and boarded up;

19. There was no evidence presented in support of the application;

## **DECISION**

The application is dismissed

### **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.**

# V. Crawford

**6 August 2021**

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**Legal Member/Chair**

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**Date**