



**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/20/0727**

**Re: Property at 5 Gayfield, Arbroath, DD11 1QJ (“the Property”)**

**Parties:**

**Mr Alan Davidson, 5 Gayfield, Arbroath, DD11 1QJ (“the Applicant”)**

**Mr Brian Denholm, Mrs Lesley Denholm, 64 Millgate Loan, Arbroath, DD11  
1QW (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the application should be dismissed.**

**Background**

1. By application dated 25 February 2020 the Applicant applied to the Tribunal for an order for payment in respect of alleged damages arising from the Respondents’ tenancy of the property. The Applicant submitted a copy of the lease, correspondence, emails, estimates for repairs to the kitchen and flooring and a series of photographs in support of his application.
2. By Notice of Acceptance dated 12 May 2020 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.
3. The Respondents representative Mr Rogers of Boyles Solicitors, Dundee submitted written representations to the Tribunal by email dated 4 August 2020.
4. A Case Management Discussion was held by tele-conference on 5 August 2020. The Applicant attended personally and the Respondents were

represented by Mr Rogers. The Tribunal noted the disputed issues and adjourned the application to a full hearing of the Tribunal. The Tribunal made an oral direction to the Applicant in the following terms:-

- a) That he provide a detailed breakdown of the number of hours claimed spent by him in respect of cleaning, removing rubbish from the property and carrying out any repairs and the hourly rate claimed.
- b) The Applicant should also detail the number of trips taken removing rubbish to the refuse site and the distance travelled and the cost of fuel and transport and also any claim for bags, cleaning materials and any other expenditure together with appropriate receipts.
- c) The Applicant to submit this document not later than 26 August 2020.

The Tribunal also directed that the Respondent could lodge any additional response in light of the documents lodged by the Applicant not later than 2 September 2020.

5. The Applicant failed to comply with the oral direction.
6. The Respondents representatives submitted a list of witnesses to the Tribunal by email dated 27 August 2020.

### **The Hearing**

7. A hearing was held by tele-conference on 1 October 2020. The Applicant did not attend nor was he represented. The Respondents were again represented by Mr Rogers who had confirmed to the Tribunal clerk that he was in a position to proceed and intended to lead evidence from the Respondents and a further seven witnesses.
8. The Tribunal indicated to Mr Rogers that in the absence of the Applicant and given his failure to comply with the oral direction that there may be a difficulty in the application proceeding. The Tribunal referred Mr Rogers to Rule 27 of The First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017. Mr Rogers asked the Tribunal to dismiss the application as the matter had been held over the Respondents for a considerable period of time and they deserved closure.
9. The Tribunal queried if Mr Rogers had any other submission to make and Mr Rogers said he did not.

### **Reasons for Decision**

10. The Tribunal noted that the Applicant had been notified of the time and date of the hearing; had failed to comply with the oral direction of the Tribunal; had failed to attend the hearing and had offered no reason or explanation for his non-attendance. The Tribunal concluded that in all the circumstances, given the Applicant's failures and lack of co-operation it could not deal with the proceedings justly and fairly and dismissed the application.

## **Decision**

11. 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.**

  


**Graham Harding  
Legal Member/Chair**

**1 October 2020  
Date**