



**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/22/2016**

**Re: Property at 157 Montrose Street, Brechin, DD9 7DQ (“the Property”)**

**Parties:**

**Mr David Christie, Alamein Cottage, Forfar, DD8 2TU (“the Applicant”)**

**Miss Ashleigh Boath, Mr Alistair Fergusson, 157 Montrose Street, Brechin, DD9 7DQ; 157 Montrose Street, Brechin, DD9 7DQ (“the Respondents”)**

**Tribunal Members:**

**Nairn Young (Legal Member) and Jane Heppenstall (Ordinary Member)**

**Decision (in absence of both parties)**

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

- Background
1. This is an application for an order for possession of the Property, which the Respondents occupy in terms of a private residential tenancy agreement with the Applicant. It called for a case management discussion (‘CMD’) at 2pm on 2 November 2022 by teleconference. Neither the Applicant nor the Respondents appeared or were represented on the call. The commencement of the CMD was delayed by 10 mins to allow for any technical difficulty, but there remained no contact.
  2. Rule 27 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (‘the Rules’) states (so far as relevant to this case):

“27.— Dismissal of a party's case

...

(2) The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to—

...

(b) co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly.”

3. In this case, the application is for an eviction order, on the grounds of alleged rent arrears. There is no detailed indication on the application form of the basis upon which the Applicant contends that the ground has been established. There are three different rent accounts in the papers, two of which appear to show that the ground relied on was not satisfied at the date of service of the notice to leave. Further, there is nothing in the application that addresses the question of whether it is reasonable for the Tribunal to grant an order. In the absence of any appearance from the Applicant at the CMD to allow clarification of these issues, the Tribunal cannot deal with the proceedings justly or fairly. The application therefore falls to be dismissed in terms of Rule 27(2)(b) of the Rules.

- Decision

### **Application 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.

# Nairn Young

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Legal Member/Chair

2 November 2022

Date