



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 33 of the Housing (Scotland)  
Act 1988**

**Chamber Ref: FTS/HPC/EV/22/3505**

**Re: Property at Rowan Lea Stenschol, Staffin, Isle Of Skye, IV51 9JS (“the  
Property”)**

**Parties:**

**Mr Calum Watt, 128 Henderland Road, Bearsden, Glasgow, G61 1JA (“the  
Applicant”)**

**Ms Patricia Mitchell, Rowan Lea Stenschol, Staffin, Isle Of Skye, IV51 9JS (“the  
Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member) and Angus Lamont (Ordinary Member)**

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

**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 Respondent occupied in terms of a short assured tenancy agreement with the Applicant. It first called for a case management discussion (‘CMD’) at 2pm on 9 February 2023 by teleconference. The Applicant did not appear and was not represented on the call. The application was therefore dismissed.
  2. The Applicant applied to recall that decision, his representative indicating that he had unavoidably been detained by another appointment of a personal

nature, which meant he had missed the CMD. That application was granted and the matter listed for a further CMD at 2pm on 28 June 2023.

3. Some months prior to the second CMD, the Respondent contacted the Tribunal to state that she had left the Property and that an order for possession was therefore no longer required. The Applicant was asked to confirm if he was withdrawing the application, but no communication was received.
4. At the second CMD, the Applicant again did not appear and was not represented. The Respondent initially called in, but, upon commencement of the CMD was not responding when invited to speak, despite showing as still being in the call. Given the absence of the Applicant, the Tribunal considered it fair to proceed on the basis that she had appeared, even if she was unable to hear what was being said.
5. 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.”

6. In this case, the application is for an order for possession of the Property, on the basis that it was let under a short assured tenancy that has come to an end. While the application is accompanied by various documentary evidence that appears to establish that the correct procedure has been followed as

required by the Housing (Scotland) Act 1988 to found an application for an order for possession, there remains the question of whether it is reasonable for the Tribunal to grant that order. Written representations were received from both parties on this matter prior to the first CMD. As stated in the decision made at that CMD, there nonetheless remain significant questions to be answered as to the up-to-date position, the reasons for the application, and the practical effect any order would have against the backdrop of the current ban on effecting evictions. There is now also the question of why any order might be necessary, when the Tribunal is being told that the Respondent has left the Property. In the absence of any appearance from the Applicant at either CMD to allow clarification of these issues, the Tribunal cannot determine these questions 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.**

N Young

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Legal Member/Chair

28 June 2023  
Date

