

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 48 of the Housing (Scotland) Act 2014 and Rule 27 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

Chamber Ref: FTS/HPC/LA/22/4056

**The Property: Flat 1/1, 6 Montgomery Avenue, Paisley, PA3 4PX (“The Property”)
The Parties:**

Mr David Farley, 17 Daisy Dormer Court, Trinity Gardens, London, SW9 8DW (“the Applicant”) and

R&J Properties (Paisley) Limited, 65 Causeyside Street, Paisley, PA1 1YQ (“the Respondent”)

Tribunal Members:

**G McWilliams- Legal Member
G Laurie - Ordinary Member**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to dismiss the Application in terms of Rule 27 (2) (b) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”)

Background and Reasons for Decision

- 1. The Applicant had applied to enforce the Letting Agent Code of Practice 2018 (“the Code”) on 7th November 2022. In particular he complained that the**

Respondent was in breach of Sections 6 (Ending the Tenancy) and 7 (Communications and resolving complaints communications) of the Code.

- 2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 10.00am on 28th February 2023. The Applicant Mr D. Farley attended by telephone from his place of work in Zimbabwe. The Respondent did not attend and was not represented. Reference is made to the Notes on the CMD, also dated 28th February 2023.**
- 3. An Evidential Hearing was assigned to proceed remotely by telephone conference call at 2pm on 28th April 2023. The Applicant was notified of the details of the Hearing by email communications from the Tribunal’s office. The Applicant was expected to submit further representations and evidence in respect of losses he had suffered allegedly as a result of breaches of the Letting Agent Code of Practice by the Respondent in advance of the Evidential Hearing.**
- 4. The Applicant did not make any contact with the Tribunal’s office and did not submit further representations and evidence following the CMD. The Applicant did not attend the Evidential Hearing and there was no explanation for his absence. There was no attendance by or on behalf of the Respondent at the CMD and the Evidential Hearing and they had not made any written representations in respect of the Application.**
- 5. Rule 27 (2) (b) of the 2017 Rules provides that the Tribunal may dismiss the whole or part of the proceedings if the Applicant has failed to co-operate with the Tribunal to the extent that the Tribunal cannot deal with the proceedings justly and fairly.**
- 6. As the Applicant did not make any contact with the Tribunal’s office following the CMD and did not attend the Evidential Hearing the Tribunal decided that he had not co-operated with the Tribunal to the extent that they could not deal with the Application justly and fairly. Accordingly, the Tribunal determined to dismiss the Application in terms of Rule 27 (2) (b) of the 2017 Rules.**

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.

G McWilliams Legal Member

Date: 2nd May 2023