



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”)**

**Chamber Ref: FTS/HPC/EV/24/3611**

**Re: Property at 28 Huntly Court, Kilmarnock, KA3 7QP (“the Property”)**

**Parties:**

**Mrs Gerda Cooper, 12 Horse Isle View, Ardrossan (“the Applicant”)**

**Mr Gary McCulloch, 21 Huntly Court, Kilmarnock, KA3 7QP (“the Respondent”)**

**Tribunal Members:**

**Sarah O'Neill (Legal Member) and Elaine Munroe (Ordinary Member)**

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

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

**Background**

1. An application was received on 6 August 2024 from the Applicant under rule 65 of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”) seeking recovery of possession of the property under Grounds 11 and 12 as set out in Schedule 5 of the 1988 Act.
2. Notice of the case management discussion (CMD) arranged for 26 February 2025, together with the application papers and guidance notes, had been served on the Respondent by sheriff officer on behalf of the Tribunal on 28 January 2025.
3. No written representations were received from the Respondent prior to the case management discussion.

4. An email was received by the Tribunal administration from the Applicant on 25 January 2025, advising that the Respondent had vacated the property on 20 January 2025.
5. An email was sent to the Applicant on 28 January 2025 asking her to confirm whether she wished to withdraw the application as the Respondent was no longer residing in the property. No response was received prior to the date of the CMD.

### **The Case Management Discussion**

6. A CMD took place by teleconference call on 26 February 2025. Neither the Applicant nor the Respondent were present or represented on the teleconference call. The Tribunal delayed the start of the CMD by 10 minutes, in case either party or their representative had been detained. Neither party attended the teleconference call, however, and no telephone calls, messages or emails had been received from them.
7. The Tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case management discussion had been duly complied with. It therefore proceeded with the CMD in the absence of both parties.

### **Reasons for decision**

8. Given the absence of both parties, and having considered the contents of the email received from the Applicant on 25 January 2025, the Tribunal concluded that the Applicant did not wish to proceed with the application. It therefore decided to dismiss the application.

### **Decision**

The Tribunal determined that the application should be 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.**

26 February 2025

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Date