

**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 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 and Under Rule 27 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Procedural Rules")**

**Chamber Ref: FTS/HPC/CV/18/3422**

**Re: Property at 37 Gladstone Road, Peterhead, Aberdeenshire, AB42 1LB ("the Property")**

**Parties:**

**Mr Mark Watson, Mallards, Gracious Pond Road, Chobham, Surrey, GU24 8HL ("the Applicant")**

**Ms Lucy Strathdee, 37 Gladstone Road, Peterhead, Aberdeenshire, AB42 1LB ("the Respondent")**

**Tribunal Members:**

**Petra Hennig-McFatridge (Legal Member)**

**Decision in the absence of the Respondent and Applicant**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application is to be dismissed in terms of Rule 27 (2) (b) of the Rules of Procedure.**

**Background:**

The application for payment of the sum of £1,100 in terms of Rule 111 and S 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 was made on 11 December 2018 by the applicant through his representative Dawn Ricketts and received by the Tribunal on 14 December 2018. A Case Management Discussion (CMD) was fixed and the notification of said CMD was issued to both parties on 28 February 2019 by

letter. In said letter both parties were notified that any representations must be returned to the Tribunal by 18 March 2019. No representations were received by either party. The notification letter also stated "The tribunal will hold a case management discussion with both parties on 21 March 2019 at 11:30 am in The Credo Centre, 14-20 John Street, Aberdeen, AB25 1BT, which you are required to attend." and advised that "the tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order."

### **The Case Management Discussion**

Neither the Applicant nor his Representative nor the Respondent attended the hearing. No contact was made by either party to the Tribunal. No explanation for the non attendance was provided.

### **Reasons for Decision:**

I considered the application in terms of Rule 27(2) of the Procedural Rules. That Rule provides:-

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

*(a) comply with an order which stated that failure by the applicant to comply with the order could lead to the dismissal of the proceedings or part of them; or*

*(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."*

The application is dismissed on the basis that the Tribunal cannot deal with the proceedings justly and fairly. In order to consider an application for payment of money the Tribunal needs to find in fact that the sum is still outstanding. It cannot make such a finding without knowledge of the up to date situation.

The Applicant has not attended the Case Management Discussions. The Applicant's representative was advised of the Case Management Discussion by letter of 28 February 2019 to the address provided in the application and thus the Applicant had been given reasonable notice in terms of Rules 17 (2) and 6 (3) of the Rules of Procedure.

In terms of the overriding objective stated in Rule 2 of the Rules of Procedure the Tribunal has to deal proceedings justly. In this case the Applicant has asked for an order for payment but has shown no further interest in this application and has not attended or been represented at the CMD despite having been duly notified.

Accordingly, in terms of Rule 27(2)(b) of the Procedural Rules the proceedings are dismissed.

### **Decision:**

After consideration of the application, the attachments and all case correspondence the application is dismissed under Rule 27(2) (b) of the Procedural 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.**

**P Hennig-McFatridge**

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**Legal Member/Chair**

*21.3.19*  
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**Date**