



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)  
Act 1988**

**Chamber Ref: FTS/HPC/CV/21/1221**

**Re: Property at 97B Foulford Road, Cowdenbeath, Fife, KY4 9AT (“the Property”)**

**Parties:**

**St Andrews Estates, 184 Newry Road, The Factory, Banbridge, Co Down, BT32  
3NB (“the Applicants”)**

**Mr Colin Jones, 97B Foulford Road, Cowdenbeath, Fife, KY4 9AT (“the  
Respondent”)**

**Tribunal Members:**

**Rory Cowan (Legal Member)**

**Decision (in absence of the Applicants and Respondent)**

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

- Background

The Applicants through their representatives lodged an application dated 19 May 2021 seeking a Payment Order for alleged rent arrears (the Application). With the Application, there was lodged the following:

- 1) Copy Lease and AT5;
- 2) Rent Statement;
- 3) Form AT2; and
- 4) Copy communications between the parties.

Following acceptance of the Application a Case Management Discussion (CMD) was scheduled to be heard by way of conference call for 8 September 2021. The date for the CMD was intimated to both the Applicants’ representatives and the Respondent.

- The Case Management Discussion

The Applicants did not appear, nor were they represented. The Respondent did not appear either. Tribunal administration attempted to contact the Applicants' representatives by telephone, but there was no response.

- Reasons for Decision

The Tribunal found itself in the unenviable position of having neither party present at the CMD. The Applicants sought a Payment Order in the sum of £2,033.14. To support that they produced various the documents as detailed above. The rent per the lease dated 21 July 2011 was £370 per calendar month. The sums that appeared on the rent statement did not reflect that amount. The rent stated in the rent statement varied from £380 to £385 to £390. There was no rent review clause within the said lease, but it was noted that the Applicants produced a form AT2 dated 17 December 2019 which purported to increase the rent to £390 per calendar month from 21 April 2020. However, there was no evidence of previous rent increases being intimated or the contractual tenancy having been terminated. Further, an AT2 on its own could not meet the requirements of section 24 of the Housing (Scotland) Act 1988 and therefore lead to an increased rent being payable for the Property. Based on what was produced with the Application, it could not be said that the appropriate notice period had been given by the AT2 for such a rent increase. That being the case, the Tribunal could not say what the level of arrears (if any) were relative to the tenancy for the Property.

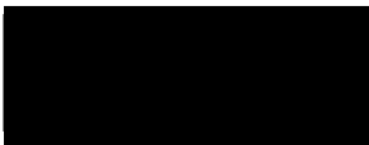
In the circumstances, without the participation and cooperation of the Applicants, the Tribunal was not in a position to deal with the Application justly and fairly and as a result resolved to dismiss the Application in terms of Rule 27 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

- Decision

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.**



\_\_\_\_\_ **8 September 2021** \_\_\_\_\_

**Legal Member/Chair**

**Date**