



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) (formerly the Homeowner Housing Panel) issued under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in an application under section 17 of the Property Factors (Scotland) Act 2011 ('The Act').**

**Chamber Ref:FTS/HPC/LM/24/1625 + 2008**

**Green Side Gate Development, 11 Alexander Street, Coatbridge, ML5 3JL ('the Property')**

**John Clarkson residing at 26 Thistledown Grove, Victoria Park, Coatbridge, ML53PR ('the Homeowner and Applicant')**

**Speirs Gumley ('the Factor and Respondent')**

**Tribunal members:**

**Jacqui Taylor (Chairperson) and Melanie Booth (Ordinary Member).**

### **Background**

1. The Homeowner is heritable proprietor of the property 11 Alexander Street, Coatbridge, ML5 3JL having purchased the property in December 2014.
2. Speirs Gumley are factors of the Property and were registered as a property factor on 7<sup>th</sup> December 2012.
3. The Homeowner submitted two applications to the Tribunal both dated

C1 Application: FTS/HPC/LM/24/1625

C2 Application: FTS/HPC/LM/24/2008

The Homeowner applied to the Tribunal for a determination that the Property Factor had failed to comply with the Property Factor's duties and specified sections of the Property Factor Code of Conduct 2012 and the Property Factor Code of Conduct 2021.

4. By Notice of Acceptance by Martin McAllister, Convener of the Tribunal, dated 15<sup>th</sup> May 2024 he intimated that he had decided to refer the application (which application paperwork comprises documents received on 2nd May 2024) to a Tribunal.

## **5. The First Case Management Discussion.**

An oral conference call Case Management Discussion (CMD) took place in respect of the application on 17<sup>th</sup> October 2024 at 10am

Neither party attended. The Tribunal clerk unsuccessfully tried to contact the Homeowner by telephone.

The parties had been advised of the CMD by letters sent by email on 7<sup>th</sup> October 2024.

The Tribunal continued the CMD.

## **6.The Second Case Management Discussion.**

An oral conference call Case Management Discussion (CMD) took place in respect of the application on 14<sup>th</sup> March at 10am

Neither party attended. The Tribunal clerk unsuccessfully tried to contact the Homeowner by telephone. The Property Factor had advised the Tribunal that they would not be attending. They provided written representations.

The parties had been advised of the CMD by letters sent by email on 17<sup>th</sup> December 2024.

## **7. Decision**

As the Homeowner failed to attend the scheduled CMD's on two occasions the Tribunal dismissed the proceedings in terms of Procedure Rule 17(2)(b) as the Homeowner had failed to cooperate with the Tribunal by failing to attend the two scheduled CMD's and the Tribunal could not deal with proceedings justly and fairly.

## **8. Appeals**

**In terms of section 46 of the Tribunals (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.**

Jacqui Taylor

Signed .....Date 14<sup>th</sup> March 2025

Chairperson