

Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act 1988 (“the Act”)

Chamber Ref: FTS/HPC/EV/20/0337

Re: Property at 148 Stewarton Street, Wishaw, ML2 8AG (“the Property”)

Parties:

Mr Ian Skinner, Essangel Cottage, Killearn, Glasgow, G63 9QG (“the Applicant”)

Mr Paul Allison, 148 Stewarton Street, Wishaw, ML2 8AG (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal 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

Summary of hearing and reasons for decision

1. Two separate applications had been lodged by the applicant seeking firstly, an eviction order in respect of a Short assured Tenancy (FTS/HPC/EV/20/0337) and secondly, an order for payment of rent arrears arising from that tenancy (FTS/HPC/CV/20/0336). The applications have not been formally conjoined but have been linked and a Case Management Discussion (“CMD”) in respect of both applications took place on 31 July 2020 and then on 27 August 2020. Notes of each CMD were prepared and circulated to the parties

2. At the CMD on 27 August it was noted that the respondent had made the payments offered at the initial CMD which has taken place on 31 July. The respondent did not take part in the CMD on 27 August but it was agreed that a further continuation would be granted to allow payments to continue to be made.
3. A further case management discussion was set to take place on 30 October 2020 and Intimation of that CMD on 30 October 2020 was sent to both parties.
4. Neither party took part in the CMD on 30 October. Neither party had intimated to the tribunal any information in advance of the CMD.
5. The tribunal must therefore assume that the payments which were being made by the respondent have continued to be made and that the applicant no longer wishes to insist upon the application for the eviction order.
6. The tribunal therefore decides that the application should be treated as withdrawn by the applicant and dismisses the applications
7. The tribunal would draw to the attention of the parties not only the appeal provisions which are set out at the foot of this decision but the provisions within the tribunal procedures (First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017) which allow for a review of a decision. Should the parties believe that the tribunal has failed to take account of any relevant matter they are invited to ask the tribunal to review the decision in terms of rule 39 of the Rules. If such a review is requested the party seeking the review is asked to set out their reasons for same

Decision

The tribunal directs that the application is to be treated as withdrawn and the tribunal dismisses the application

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Jim Bauld

30 October 2020

Legal Member/Chair

Date