



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing(Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/19/3087

Re: Property at Flat 7, 1 Arneil Place, Edinburgh, EH5 2LZ (“the Property”)

Parties:

Mr Robert Macleod, Mrs Anna Macleod, Clan Gordon, Unit 1B, 1 Carmichael Place, Edinburgh, EH6 5PH (“the Applicant”)

Mr Murray Crowson, ADDRESS UNKNOWN, ADDRESS UNKNOWN (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Applicants and the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that as there was no appearance by or on behalf of either party, the Application be dismissed.

Background

1. This case is an action for recovery of former rent arrears by the Applicants from the Respondent relating to a tenancy of the Property. It called for a Case Management Discussion (“CMD”) at 2 pm on 22 January 2020. There was no appearance by either party at the CMD.
2. The Tribunal noted the Applicants had requested the Respondent be served papers by way of advertisement on the Tribunal’s website as his whereabouts were unknown. Accordingly, the Tribunal had arranged for service of the Application on the Respondent by way of advertisement under Rule 6A of the First-tier Tribunal for Scotland Housing and Property (Procedure) Regulations 2017. A certificate of service was produced by the Tribunal administration confirming that service by advertisement had been made on the Respondent.
3. The Tribunal also noted the Applicants had been advised by letter dated 19 December 2019 that the CMD would proceed on 22 January 2020 at 2pm. More importantly the Tribunal noted that the same letter stated that the Applicants were required to attend the CMD. This requirement for the Applicants to attend at the CMD had been underlined for emphasis.

4. Further the letter of 19 December 2019 advised the Applicants that if they did not attend the Case Management Discussion that would not stop a decision or order being made by the Tribunal if the Tribunal considers it has sufficient information before it to do so and the procedure had been fair.
5. After it was clear to the Tribunal that the Applicants were not in attendance, the Tribunal requested the administration team attempt to speak to the Applicants to determine whether they intended to appear. The second named Applicant advised they were not in Edinburgh that afternoon, that they were not aware they had to attend the CMD and that they would send the Tribunal an email.

Reasons for Decision

6. The Tribunal considered that the Applicants had had intimation by letter of 19 December 2019 that the CMD would proceed on 22 January 2020 and that that letter was very clear that they as Applicants were required to attend the CMD. Further the letter of 19 December 2019 was clear that even if the Applicants did not appear the Tribunal could still make a decision in their absence if the Tribunal had sufficient information before it and the procedure had been fair. The Tribunal considered the Applicants had been provided with a letter which specifically required them to attend the CMD. They had failed to do so. Further the letter specifically stated that the Tribunal could still make a decision without their appearance. In the circumstances the Tribunal was satisfied it had enough information before it and that the procedure had been fair, to dismiss the action. Accordingly, there being no appearance by or on behalf of the Applicants, dismissed the action by the Applicants for want of insistence.

Decision

7. The Tribunal dismissed the action.

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.

Shirley Evans

Legal Member/Chair

22 January 2020.

Date