



**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/19/3250

Re: Property at 9 Avon Place, Coatbridge, ML5 2JE (“the Property”)

Parties:

Mr Perwaiz Akhtar, 10 Avonhead Road, Condorrat, Glasgow, G67 4RA (“the Applicant”)

Mr Billy Jackson, present whereabouts unknown (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Applicant and Respondent)

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

Background

1. This is an action for recovery of former rent arrears by the Applicant from the Respondent relating to a private residential tenancy of the Property. It called for a Case Management Discussion (“CMD”) on 7 January 2020. The Applicant was represented by Mr Clark from Aquila Management Services Limited. There was no appearance by or on behalf of the Respondent.
2. During the course of the CMD a number of issues were discussed including the spreadsheet lodged on behalf of the Applicant in support of the application which purported to show the arrears of rent. The Tribunal noted the spreadsheet was difficult to follow and that a revised version showing the balance of the arrears and how they had accrued should be prepared and lodged with the Tribunal. The CMD was accordingly continued for these issues to be attended to. The Tribunal issued a Direction on 13 January 2020 that in advance of the next CMD the Applicant was required to prepare and lodge a rent account which clearly showed the level of arrears outstanding and how that amount had been calculated.

3. The continued CMD proceeded on 21 February 2020. The Applicant was again represented by Mr Clark. There was no appearance by or on behalf of the Respondent. The Tribunal asked Mr Clark if he had a copy of the revised rent account in accordance with the Direction issued on 13 January 2020. Unfortunately he did not, but again referred the Tribunal to a spreadsheet on his laptop which appeared to be the same spreadsheet which had been lodged in support of the Application and which had already been commented on by the Tribunal as being difficult to follow.
4. As the Tribunal could not be certain what if any sum was allegedly due by the Respondent the CMD was adjourned again to allow the Applicant further time to comply with the Direction in dated 13 January 2020 in relation to the rent statement. In the subsequent Note issued from the adjourned CMD the Tribunal set out how the rent statement should be set out. A further Direction was issued on 21 February 2020 which reflected the Direction of 13 January 2020, namely that the Applicant comply with the Direction of 13 January 2020 and lodge a rent statement as set out in the Note.
5. A further CMD was assigned for 9 April 2020. That adjourned CMD was discharged due to the COVID pandemic.
6. A further CMD was assigned to proceed on 30 July 2020. The Tribunal intimated that the adjourned CMD would proceed at 10 am on 30 July 2020 on the Applicant's representative by way of a letter dated 23 June 2020. As the Respondent's whereabouts were unknown, the Tribunal had arranged for intimation 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.
7. On 21 July 2020 the Tribunal emailed the Applicant's representative reminding him that a revised and clear rent statement had to be lodged.

Case Management Discussion

8. Neither party appeared at the adjourned CMD on 30 July 2020 which proceeded by way of teleconference.
9. The Tribunal was satisfied that both parties had had proper intimation that the adjourned CMD would proceed on 30 July 2020. In the circumstances the Tribunal dismissed the Application.

Reasons for Decision

10. The Tribunal noted that the Applicant had not complied with two previous Directions to produce a rent statement which showed the arrears figure and how that had been calculated. Further the Tribunal noted that the Applicant's representative had not replied to the Tribunal's email of 21 July 2020. There was no evidence before the Tribunal as to how the alleged arrears had accrued. The rent statement lodged with the Application was confusing, did not show an arrears figure that corresponded to the sum sought in the Application and did not show how an alleged arrears had accrued. The Applicant's representative had not been in contact with the Tribunal since the 21 February 2020 and had taken no steps to progress the case. The Tribunal considered that in all the circumstances the application should be dismissed.

Decision

11. The Tribunal dismissed 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.

2 August 2020

Legal Member

Date