



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016.

Chamber Ref: FTS/HPC/CV/21/2206

Re: Property at 3 Priory Place, Elgin, IV30 1RW (“the Property”)

Parties:

Miss Hallie Russell, Craig Fraser, 36 Cordiner Court, Peterhead, AB42 1UW (“the Applicant”)

Mr Douglas Miller, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismissed the Application in terms of Rule 27(2)(b) of the First-tier Tribunal for Scotland Housing and Property Chamber) (Procedure) Regulations 2017.

Attendance

Neither Applicant was in attendance.

The Respondent was not in attendance.

Introduction

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for an Civil Proceedings concerning a private residential tenancy at 3 Priory Place, Elgin under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016.

Background

This case had previously called on the 30th March 2022 and on the 19th May 2022. The case was continued to a new CMD initially as although the Respondent was served by advertisement notice of that hearing it seems there may have been an error in regards the address sent to Sheriff Officers in the first place. Accordingly service was reattempted by Sheriff Officer at the address 31A Northbridge Street, Bathgate. This failed, The Respondent did however get service by advertisement in addition to that. At the hearing on the 30th March 2022 the First Applicant advised her new address going forward would be 36 Cordiner Court, Peterhead AB42 1UW. The Tribunal amended her address and all correspondence to her was by email by authorisation in any event.

On the 19th May 2022 no party was in attendance despite service. The Tribunal decided in the interests of justice to continue same to a full Hearing on today's date, the 30th June 2022. The Tribunal noted that the non attendance of the Applicant on the 19th May 2022 be an oversight given her earlier attendance. The parties were sent intimation of today's hearing by email on 26th May 2022.

Hearing

The Tribunal considered that given the Applicant had not attended now 2 hearings that the Terms of Rule 27(2)(b) of the First-tier Tribunal for Scotland Housing and Property Chamber) (Procedure) Regulations 2017 applied and dismissed the case.

Reasons for Decision

In terms of the Rule 27(2)(b) the Tribunal can dismiss the proceedings if the Applicant has failed to cooperate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings fairly and justly. The Tribunal on the repeated non attendance of the Applicant nor communication from her regarding her application considered they could not fairly deal with the application and dismissed same.

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.

K Kirk

30 June 2022

Legal Member/Chair

Date