



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/0226

Re: Property at 7C Caroline Place, Fraserburgh, AB43 9HR (“the Property”)

Parties:

Mr Julius Zemulis, 3 St Peter Street, Peterhead, AB42 1RR (“the Applicant”)

Mr Jordan Noble and Ms Natalia Hajalawi, both residing at Harbour Office, Shore Street, Fraserburgh, AB43 9BR (“the Respondents”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismissed the application.

Background

- 1 By application dated 22 January 2019 the Applicants sought an order for payment of outstanding rent arrears against the Respondents. In support of the application the Applicants submitted the following documents:-
 - a. Tenancy Agreement between the Applicant and Respondents dated 9th July 2018;
 - b. Excerpt from text messages between the Applicant and the First Named Respondent; and
 - c. Rent Account
- 2 By Notice of Acceptance of Application dated 20th February 2019, the Legal Member with delegated powers of the Chamber President intimated that there were no grounds for rejection of the application. A Case Management Discussion was therefore assigned for 17th April 2019.

- 3 A copy of the application together with supporting documentation and notification of the Case Management Discussion was served on each Respondent by Sheriff Officers on 27th March 2019.

The Case Management Discussion

- 4 The Case Management Discussion took place at the Credo Centre, Aberdeen on 17th April 2019. Neither the Applicant nor the Respondents were present. The Tribunal Clerk contacted the Applicant's office however he was unavailable. A message was left but the Applicant did not return the call.

Reasons for Decision

- 5 The Tribunal considered the Applicant's conduct in failing to notify the Tribunal of the reasons for his absence and failing to return the call made by the Tribunal Clerk. This equated to a failure to co-operate to an extent that the Tribunal was unable to deal with the proceedings justly and fairly. The Tribunal further considered the Applicant's failure to attend may be an indication that payment of the sums sought had been made. If that was not the case, it would be open to the Applicant to submit a further application to the Tribunal.
- 6 The Tribunal considered whether to adjourn the Case Management Discussion to a further date. However in the absence of any explicit request from the Applicant for a postponement the Tribunal had concerns that convening a further Case Management Discussion may not be proportionate having regard to the nature of the application and the conduct of the Applicant. Accordingly the Tribunal therefore considered it would be proportionate in all of the circumstances of the case to dismiss 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.

Ruth O'Hare

Legal Member/Chair

17/4/19

Date