

**Statement of Decision under Rule 38(3) of the First-tier Tribunal for Scotland
Housing and Property Chamber Rules of Procedure 2017 (contained in Schedule 1 of
the Chamber Procedure Regulations 2017 (SSI No 328)) (“The Rules”) in relation to a
request for permission to appeal under section 46(3) (a) of the Tribunals (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/EV/22/3461

Re: Property at 30 Cardonald Drive, Glasgow, G52 3JT (“the Property”)

Parties:

Mrs Janice Dalziel, 44 Park Green, Erskine, PA8 7HJ (“the Applicant”)

Miss Alison Crone, 30 Cardonald Drive, Glasgow, G52 3JT (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refuses permission to appeal.

Background

- [1] On 10 February 2023, the Tribunal granted the above Application at a Case Management Discussion (CMD) and made an Eviction Order.
- [2] A Decision with Statement of Reasons was issued “(The Decision”) and this Decision is referred to for its terms which sets out the basis for the Application and the reasons for the decision made to grant an Eviction Order.
- [3] The Respondent, by email dated 6 March 2023, applies for Permission to Appeal this decision.

Basis of the Appeal

- [4] The entirety of the email is as follows:

To whom it may concern

I am writing today to request an appeal on the decision to grant the eviction notice for 30 cardonald drive g523jt the reason I am requesting that an appeal be granted is purplebricks issued evidence hours before the tribunal hearing that I was not made aware of until I was already on the tribunal call I feel this evidence has then left myself in a position were I could not defend my actions properly as I could not submit further disputing evidence to be given consideration and when this was brought up in the case conference and I requested that an adjournment be granted to allow me to get further evidence and seek legal representation this was completely ignored.

I feel before a decision can be accurately made both parties should be given the same right to supply evidence where as in this case I was not given chance to put forward further evidence to the new allegation from purplebricks

Many thanks alison crone

[5] The potential lines of argument can be summarised as follows:

1. The Applicant produced evidence shortly before the CMD which caused prejudice to the Respondent's defence by restricting her ability to adequately defend the case;
2. A request for an adjournment was ignored;
3. The Respondent was denied an opportunity to put forward further evidence.

The Rules

[6] Rules 37 and 38 regulate procedure in respect of Applications for Permission to Appeal. Rules 37 (1) and (2) are in the following terms:

Application for permission to appeal a decision of the First-tier Tribunal

37.—(1) A person must make a written application to the First-tier Tribunal for permission to appeal.

(2) An application under paragraph (1) must—

(a) identify the decision of the First-tier Tribunal to which it relates;

(b) identify the alleged point or points of law on which the person making the application wishes to appeal; and

(c) state the result the person making the application is seeking.

Rule 38 is in the following terms.

38.—(1) *The First-tier Tribunal must decide whether to give permission to appeal on any point of law.*

(2) *The First-tier Tribunal must provide a record of its decision to the parties and any interested party as soon as reasonably practicable.*

(3) *If the First-tier Tribunal refuses permission to appeal on any point of law, it must provide its decision —*

(a) a statement of its reasons for such a refusal; and

(b) notification of the right to make an application to the Upper Tribunal for permission to appeal and the time within which, and the method by which, such an application must be made.

Application of the Rules to the Appeal.

[7] It is apparent that any appeal may only be on “a point of law”. What is a “Point of Law”? The Inner House of the Court of Session in the case of *Advocate General for Scotland v Murray Group Holdings Limited* (2015) CSIH 77 identified four different categories of case covered by the concept of an appeal upon a point of law: these are (i) an error of general law, the content of its rules; (ii) an error in the application of the law to the facts; (iii) making findings in fact without a basis in the evidence; and (iv) taking a wrong approach to the case by, for example, asking the wrong questions or taking account of manifestly irrelevant considerations, or by arriving at a decision that no reasonable tribunal can properly reach.

[8] Considering the lines of argument advanced in the Application for Permission to Appeal and having regard to the necessary tests for granting permission to appeal, the Tribunal finds as follows in respect of each line of argument.

1. *The Applicant produced evidence shortly before the CMD which caused prejudice to the Respondent’s defence by restricting her ability to adequately defend the case.*

[9] It is understood that the 'evidence' alluded to by the Respondent was a rent statement provided by the Applicant’s Representative. This was dismissed by the Respondent at the time as irrelevant. As rent arrears was not the ground relied upon, the Tribunal did not explore the matter with any rigour. The Tribunal decided that the ground relied upon was established and that it was reasonable

to grant an Eviction Order. The Decision identifies that the Respondent's defence to the Application was that she did not receive the Notice to Leave. The Decision explains why this defence was not upheld. It cannot be identified what specific error in law the Tribunal supposedly made.

2. *A request for an adjournment was ignored.*

[10] The Decision records that neither party had any preliminary matters to raise and that both sides were ready to proceed. It cannot be identified why the Respondent might have needed an adjournment.

3. *The Respondent was denied an opportunity to put forward further evidence.*

[11] There is no specification of what evidence the Respondent claims she was denied the opportunity of presenting. The decision records that neither party had any preliminary matters to raise and that both sides were ready to proceed.

Decision

[12] The Tribunal cannot identify any error in law that might allow the Tribunal to grant permission to appeal. The Tribunal refuses to grant permission to appeal.

APPEAL PROVISIONS

A party aggrieved by the decision of the Tribunal may seek permission to appeal to the Upper Tribunal for Scotland on a point of law only. That party must seek permission to appeal within 30 days of the date the decision was sent to them. The request for permission to appeal must be in writing and you may wish to consult the Scottish Courts and Tribunals Service website which includes an application form with information on the details required.

A decision of the First-tier Tribunal relating to a permission to appeal request cannot be appealed or reviewed.

A. McLaughlin

24 March 2023

Legal Member

Date