



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/21/0963

Re: Property at Flat 0/2, 540 Balmore Road, Glasgow, G22 6QW (“the Property”)

Parties:

Mr Brian Gibson, 193 Dalrymple Street, Girvan, KA26 9BG (“the Applicant”)

Mr Joseph McGuire, Ms Kirsty MacLean, Flat 0/2, 540 Balmore Road, Glasgow, G22 6QW; 13 Gallowhill Avenue, Kirkintilloch, G66 4QB (“the Respondents”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:

Background

In this matter the Applicant seeks a Payment Order for rent arrears said to have been accrued by the Respondents under the terms of a tenancy between the parties.

The First Respondent had appeared at the initial calling of the Application at a Case Management Discussion (“CMD”). He had subsequently failed to set out his stated defence of “rent abatement” as ordered by the Tribunal in a Direction set out following on from that CMD. The First Applicant thereafter did not attend any subsequent tribunals or engage in the case in any other way.

The matter had previously called as a Hearing which was adjourned on the day on account of the Second Respondent's last-minute lodging of what appeared to be material evidence. The Application was then continued to another Hearing scheduled for today.

The Hearing

The Application called as a Hearing by conference call at 10 am on 22 October 2021. The Applicant was once again represented by Ms Barclay of Happy Lets. The First Respondent was again not in attendance. The Second Respondent was personally present with two representatives from Strathclyde Law Clinic; Ms Hope was introduced as "lead representative" and a Ms Mido was also in attendance from that organisation.

At the outset of the Hearing, parties advised that they had reached a settlement which they informed the Tribunal had been set down in a signed contract between the Applicant and the Second Respondent.

The parties asked the Tribunal to "sist" the Application to allow the terms of the settlement to be implemented and for an agreed series of payments to be made by the Second Respondent to resolve the matter.

The Tribunal advised parties that it was not open to the Tribunal to sist the Application. "Sisting" is of course a concept well known and understood in the traditional court system, but there is no similar provision in the Tribunal's own rules and procedures.

The Tribunal noted though that as a settlement appeared to have been reached, parties should be encouraged to apply their minds to reaching a solution and to confirm to the Tribunal what orders, if any, they wished the Tribunal to make. The Tribunal adjourned for discussions to be had and instructions to be taken.

When the Tribunal reconvened following on from the final of these adjournments, the parties confirmed that they intended to honour the terms of the written agreement reached between the parties and that the Applicant would simply withdraw this Application. It was acknowledged by Ms Hope that if the payment arrangements agreed were not adhered to, then a further Application for a Payment Order would be submitted and the signed settlement contract would be referred to.

Ms Barclay confirmed that on the basis that a private settlement had been reached, she wished to withdraw the Application.

Having considered matters, the Tribunal allowed the Application to be withdrawn and made no further order.

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.

Andrew McLaughlin

22nd October 2021

Legal Member/Chair

Date