



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/22/0549

Re: Property at 154 Craigbank Street, Larkhall, ML9 1JR (“the Property”)

Parties:

Miss Clare Lambert, 5 Cot Castle Grove, Stonehouse, ML9 3RQ (“the Applicant”)

Miss Kimberley Todd, 5 Lindsey Road, Blackwood, Lanark, ML11 9QX (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member)

Decision (in absence of the Applicant)

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

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion by teleconference on 6 June 2022. The Applicant was neither present nor represented. The Respondent (now known as Mrs McCutcheon) was present on the call.
2. The Applicant had not contacted the Tribunal prior to the CMD to suggest that there was any issue with her attendance at the CMD. Notification of the CMD had been intimated to the Applicant’s Representative, Mr Munro of GBS Lets Ltd, by letter dated 25 April 2022. For that reason, the Tribunal was satisfied that the Applicant was aware of the CMD and had offered no explanation for her non-attendance.

3. The Respondent advised that she was opposed to the Application. She spoke of rent having not been paid due to repairing issues at the Property, and in particular to the electrics within the Property.
4. In order for an Application to proceed, it requires the Applicant to appear at hearings fixed by the Tribunal to make procedural progress. The letter to the Applicant's Representative of 25 April 2022 indicated that the order sought may be refused if the Applicant or her Representative did not appear. In terms of Rule 27(2) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017:-

“(2) The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to-
 - (a) comply with an order which stated that failure by the applicant to comply with the order could lead to the dismissal of the proceedings or part of them; or
 - (b) co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly.”
5. In the circumstances, the Tribunal is satisfied that both arms of Rule 17(2) are engaged. Firstly, the Applicant was warned about the potential effect of her non-attendance at the CMD. Secondly, without the Applicant in attendance, the Tribunal could not deal with proceedings justly and fairly. It could not make expeditious progress with the Application. The Applicant simply was not there to insist on the Application, and her intentions were unknown in that respect.
6. For those reasons, the Tribunal dismissed the Application for want of insistence.

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 Upton

06/06/2022

Legal Member/Chair

Date