



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/22/1884

Re: Property at 179 West Main Street, Armadale, Bathgate, EH48 3HY (“the Property”)

Parties:

Mr Sajid Naeem Mohammed, 69 Main Street, Stoneyburn, Bathgate, EH47 8BY (“the Applicant”)

Mr Tomas Kotlar, Miss Dominika Makova, 179 West Main Street, Armadale, Bathgate, EH48 3HY (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Applicant and the Respondent)

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

Background

1. An application was received by the Housing and Property Chamber dated 10th June 2021. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 15 of the Private Housing (Tenancies) Act 2016.
2. On 27th September 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 4th November 2022 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 18th October 2022.
3. On 29th September 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondents by personal service leaving it in the hands of Mr Tomas Kotlar. This was evidenced by Certificate of Citation dated 29th September 2022.

4. A CMD was held on 4th November 2022 at 2pm by teleconferencing. The Applicant not present. Mr Saqib Mohammed, the Appellant's son attended the Tribunal to represent his father. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The case was adjourned to a further CMD to allow the Applicant to send in a mandate confirming that his son Mr Saqib Mohammed is his representative, to allow for the notification letter (including forms to request an interpreter for the CMD) and this CMD note to be translated into Latvian and sent to the Respondents and to allow the Applicant to lodge any further evidence. A direction was issued.
5. On 18th November 2022, the Respondent called to say that their language was Slovakian and not Latvian. The relevant parts of the papers were translated to Slovakian.
6. On 20th December 2022, the Applicant was emailed to advise of the new date set for the CMD of 20th February 2023 at 10am by teleconferencing. The Respondents were written to on the same day with the same information. This was sent by recorded delivery and was translated into Slovakian.

The Case Management Discussion

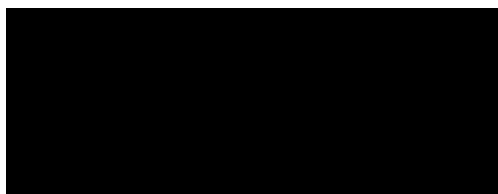
7. A CMD was held on 20th February 2023 at 10am by teleconferencing. By 10.10am neither the Applicant nor the Respondent were present. Neither had submitted representations that they would not attend the CMD. The Tribunal had insufficient information before it to grant the application or that the application continued to be relied upon. The Tribunal refused the application. No order was granted.

Decision

8. The application was refused as neither party were present as such there was insufficient evidence to know that the application was still to be relied upon.

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.



Legal Member/Chair

20th February 2023

Date

