



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Reference number: FTS/HPC/EV/20/0133

Application dismissed on 14 August 2020 in absence of both parties.

Property: G/R, 31 Springvale Street, Saltcoats, KA21 5LP

Parties:

Hovepark Properties Ltd, a company incorporated under the Companies Acts and having their registered office at 4a Gildredge Road, Eastbourne ("the Applicant")

and

Graeme Rooney, residing at G/R, 31 Springvale Street, Saltcoats, KA21 5LP ("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)
Gerrard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") dismisses the application for want of insistence.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to leave, served on 29 November 2019, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

The Hearing

1. The Applicant is represented by Miss M McDiarmid of Hovepark lettings. A case management discussion took place on 9 March 2020 at which Miss MacDiarmid was present. The respondent has not taken part in these proceedings at any stage.

2. On 9 March 2020 directions were issued ordaining the applicant to intimate a list of witnesses and to set out a chronology of events. Those directions have not been complied with.

3. A hearing took place by telephone conference at 10am on 14 August 2020. The hearing was delayed until 10.30am to allow sufficient time for the parties to participate, but there was no appearance by or on behalf of either the applicant or the respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 4 September 2019. The respondent took entry to the property on the same day.

2. The applicant received complaints from neighbouring proprietors about the respondent's conduct. In response, the applicant served a notice to leave on 29 November 2019, and lodged an application for repossession of the property with the tribunal on 9 January 2020.

3. Notice of today's hearing was served on both the applicant and the respondent on 16 July 2020 by the tribunal. The respondent has not participated in the tribunal process at all. The applicant has not complied with directions and neither moves the application nor offers any evidence in support of the application.

Reasons for the Decision

The Tribunal dismisses the application because the applicant does not offer evidence in support of the application and because the applicant, having been given adequate notice of the time date and place of this hearing, no longer pursues the application.

Decision

For the foregoing reasons, the Tribunal determined to dismiss 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.

P Doyle

Legal Member

14 August 2020