



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

Chamber Ref: FTS/HPC/EV/23/0776

Re: Property at 0/1 41 Bankhall Street, Glasgow, G42 8SL (“the Property”)

Parties:

Mr Paul Heneghan, 21 River Wynd, Stirling, FK9 5GN (“the Applicant”)

Ms Somma Anca Demian, Mr Remus Lacatus, 0/1 41 Bankhall Street, Glasgow, G42 8SL; UNKNOWN, UNNOWN (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of both the Applicant and the Respondent)

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

Background

1. By application dated 10 March 2023 the Applicant’s representatives, Belvoir Lettings, Paisley applied to the Tribunal for an order for the eviction of the Respondent from the property under Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a rent statement, Notice to Leave with proof of postage, and copy of the lease in support of the application.
2. Following further correspondence between the tribunal administration and the Applicant’s representative a legal member of the Tribunal with delegated powers accepted the application on 7 July 2023 and a Case Management Discussion (“CMD”) was assigned.
3. Written representations were submitted on behalf of Ms Somma Anca Demian by her representatives Govanhill Law Centre on 12 and 15 September 2023.

4. The Applicant's representative also submitted written representations by email on 12 September 2023.
5. A CMD was held by teleconference on 18 September 2023. The CMD was only attended by Ms Lyndsey McBride of Govanhill Law Centre on behalf of the Respondent Ms Demian. The Applicant's representative was unable to attend due to ill health but had not requested a postponement. Neither the Applicant nor the Respondent Mr Lacatus were in attendance. The Tribunal determined to adjourn the proceedings to allow the Applicant to be represented and for clarification from the Applicant on the grounds for eviction, written legal submissions, the validity of the Notice to Leave and for further documentary evidence to be produced.
6. The Tribunal issued a Notice of Direction dated 18 September 2023 to the Applicant and the Respondent.
7. A second CMD was held by teleconference on 7 November 2023. Initially neither party was in attendance or was represented. The Tribunal clerk managed to contact the Applicant's representative, Mrs Gill, who joined the call. The clerk was unable to contact the respondent's representative. The tribunal noted that neither party had complied with the Notice of Direction issued on 18 September 2023 and in the circumstances adjourned the CMD once again to another CMD and again issued a Notice of Direction to the Applicant and the Respondent in the same terms dated 7 November 2023.
8. By emails dated 17 November 2023 the Respondent's representative advised the Tribunal that she had withdrawn from acting for the Respondent, Ms Demian and requested that all future correspondence be sent to the Respondent herself and also that it be translated into Romanian.
9. Intimation of the CMD was translated into Romanian and sent to the Respondent Ms Demian on 20 November 2023.
10. Neither party submitted documentation in compliance with the Notices of Direction of 18 September and 7 November 2023.

The Case Management Discussion

11. A CMD was held by teleconference on 1 February 2024. Neither party was in attendance or represented. The Tribunal waited for approximately 15 minutes to see if any party or a representative dialled in.
12. Given the failure of the parties to attend on previous occasions and given in particular the Applicant's total failure on two occasions to provide the information and documentation requested in the Notices of Direction the Tribunal was of the view that it should dismiss the proceedings in terms of Rule 27(2)(b) of the First-tier Tribunal for Scotland Housing and Property Chamber Procedure Regulations 2017 as the Applicant had failed to co-operate with the

Tribunal to such an extent that it could not deal with the proceedings justly and fairly.

Reasons for Decision

13. The proceedings have been unnecessarily protracted due to the failure of the Applicant to comply with the Notices of Direction issued by the Tribunal. If an Applicant wishes to bring proceedings before the Tribunal it is essential that they comply with directions and ensure they attend or are represented at hearings. In the absence of proper information the Tribunal cannot deal with the proceedings justly and fairly.

Decision

14. The application is dismissed.

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.

**Graham Harding
Legal Member/Chair**

**1 February 2024
Date**