

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 27(2) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/CV/23/3731

Re: Property at 7 Rose Street, Lesmahagow, ML11 0HT (“the Property”)

Parties:

Mr Peter Wilkinson, Hafton Castle, Hunters Quay, Dunoon, Argyll, PA23 8HP (“the Applicant”)

Mr Alan Nairn, 14 Braeside Lane, Kirkmuirhill, ML11 9SF (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision (in absence of the Applicant and Respondent)

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

Background

1. By application on 23 October 2023, the Applicant applied for a payment order against the Respondent in the sum of £2,105.60 in respect of rent arrears under Rule 111 of the Regulations.
2. A Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations on 14 November 2023. The Applicant was notified of this and, on 16 November 2023, submitted a mandate authorising their letting agent, Countrylet Ltd, to act on their behalf in connection with the application and for all further communications to be sent to Countrylet Ltd.
3. A Case Management Discussion (“CMD”) was scheduled to take place on 31 January 2024 at 11.30am and details were notified to Countrylet Ltd by email on 7 December 2023. Service of the papers on the Respondent was made by

Sheriff Officer on 12 December 2023 at his new address stated above, in terms of which the Respondent was to lodge any written representations by 28 December 2023. No representations were lodged by the Respondent prior to the CMD.

Case Management Discussion

4. The CMD took place by telephone conference call on 18 December 2023 at 11.30am. No-one attended. The Legal Member delayed the commencement of the CMD for 10 minutes to give the parties an opportunity to join late but they did not do so. On the Legal Member's instructions, the Tribunal Clerk contacted the Applicant's representatives, Countrylet Ltd, by telephone, and was advised that there was no one available to assist. The Tribunal had no telephone number for the Respondent.
5. Having checked that parties had been properly and timeously notified of the details of the CMD and had received no request for an adjournment or postponement of same, the Legal Member determined that the application be dismissed in terms of Rule 27(2) of the Regulations, which is as follows:-

"Dismissal of a party's case

27.—(1) The First-tier Tribunal must dismiss the whole or a part of the proceedings if the First-tier Tribunal does not have jurisdiction in relation to the proceedings or that part of them.

(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."

Outcome

The application was dismissed by the Tribunal in terms of Rule 27(2) of the Regulations at the CMD.

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.

Nicola Weir

Legal Member/Chair _____

31 January 2024
Date