



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 and Rule 27 (2) (b) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).**

**Chamber Ref: FTS/HPC/CV/23/1574**

**Re: Property at 0/1,30 Elizabeth Street, Glasgow, G51 1AD (“the Property”)**

**Parties:**

**Mr Michael Logan, 11 Craigbrook Gardens, Edinburgh, EH4 3NW (“the Applicant”)**

**Miss Amy Munro, sometime residing at 0/1,30 Elizabeth Street, Glasgow, G51 1AD and whose current address is unknown (“the Respondent”)**

**Tribunal Member:**

**Martin J. McAllister**

**Decision**

**The application is dismissed.**

**Background**

- 1. This is an application for payment. The application is dated 15 May 2023 and was accepted for determination on 18 August 2023.**
- 2. A case management discussion was held by audio conference on 7 November 2023. The Applicant was not present and, after waiting until 10.10 am, the clerk telephoned him and he indicated that he had not had notification of the date and time of the case management discussion. The Tribunal records showed that a letter of notification had been emailed to the Applicant on 29 September 2023. The Applicant did not join the teleconference. The Respondent was not present.**
- 3. It was noted that, prior to the application being accepted for determination, the Applicant had intimated that the Respondent had left the Property on 17 July 2023. In the same email, the Applicant stated that**

the arrears of rent up to 17 July 2023 was £2984.38 and that this was the sum he was seeking an order for.

4. It was noted at the case management discussion that notification on the Respondent had been served at the Property on 3 October 2023 and that she had not been residing there since 17 July 2023. The service was therefore ineffective as the Respondent did not have notice of the case management discussion.
5. The Tribunal could not progress the application at the case management discussion because of the want of service on the Respondent and determined that the matter would require to be continued.
6. The note of the case management discussion, a copy of which was sent to the Applicant, stated that it is the responsibility of an applicant to provide an address for a respondent to enable intimation of a case management discussion. The note stated that the Applicant is required to submit the Respondent's address to the Tribunal to enable notification of a case management discussion to be given to her.
7. The note of the case management discussion stated that Regulation 6A of the Rules makes provision for an applicant to make an application for Service by Advertisement in circumstances where a respondent's address is unknown but that such an application will only be accepted where an applicant provides information on what steps have been taken to find the address such as using a tracing agent or sheriff officer. The note stated that the Tribunal's website provides information for applicants.

#### **Direction**

8. On 7 November 2023, the Tribunal made a Direction under Regulation 16 of the Rules requiring the Applicant to provide the address of the Respondent.

#### **Decision**

9. The Tribunal determined to dismiss the application.

## Reasons

10. The Tribunal had directed the Applicant to provide the address of the Respondent and he had not done so. The Tribunal accepted that it may be the case that the Applicant had tried to find the address without success but it did not know if this is the case because the Applicant had sent no communication to the Tribunal administration subsequent to the date of the case management discussion.
11. The Applicant had failed to comply with the Direction issued on 7 November 2023.
12. The note of the case management discussion had referred to the possibility of the Applicant utilising Regulation 6A of the Rules.
13. The Tribunal had regard to Regulation 27 (2) (b) of the Rules:

*The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to....co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly.*

14. The Tribunal determined that, in not complying with the terms of the Direction or making an appropriate application under Rule 6A of the Rules, the Applicant has failed to co-operate with the First-tier Tribunal which cannot deal justly and fairly with the application without the Respondent being made aware of it and having the opportunity to participate.

## 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  
14 January 2023