



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/EV/23/2524

Re: Property at 11 Warout Brae, Glenrothes, Fife, KY7 4JP (“the Property”)

Parties:

Mr John Standaloft, 29 Thurlow Way, Houghton-le-Spring, Durham, DH5 8NW (“the Applicant”)

Mr William Fraser, 11 Warout Brae, Glenrothes, Fife, KY7 4JP (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Applicant)

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

Background

1. By application on 27 July 2023, the Applicant applied for an eviction order against the Respondent under Rule 66 of the Regulations (the ending of a Short Assured Tenancy by service of the relevant notices).
2. Following initial procedure and several requests for further information from the Applicant’s representatives, Fife Properties, which were never fully addressed, 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 29 November 2023, together with a Direction requesting that the outstanding paperwork be submitted to the Tribunal by 15 December 2023.
3. A Case Management Discussion (“CMD”) was scheduled to take place on 28 February 2024 at 2pm and details were notified to the parties.

4. The Respondent submitted written representations to the Tribunal on 29 January 2024 which were circulated to the Applicant's representatives. On the morning of the CMD, the Tribunal Members noted that the paperwork required on behalf of the Applicant in terms of the Tribunal Direction had still not been submitted and an urgent reminder was issued to the Applicant's representatives by email, requesting an urgent response, given the CMD scheduled for 2pm. Two responses were received from the Lettings Manager of Fife Properties by email, one attaching the written consent of the joint owner of the Property and the second re-submitting an earlier email from Fife Properties which did not attach the required outstanding information.

Case Management Discussion

5. The CMD took place by telephone conference call on 28 February 2024 at 2pm and was attended only by the Respondent. The commencement of the CMD was delayed by 10 minutes to allow an opportunity for the Applicant's representatives to attend. On the Legal Member's instructions, the Tribunal Clerk also attempted to contact the Lettings Manager of Fife Properties via the landline and mobile telephone numbers on his email correspondence from earlier but neither number was answered. The Tribunal Clerk also left a message on the answering service but no return calls were made from Fife Properties.
6. Having checked that parties had been properly and timeously notified of the details of the CMD and that the Tribunal had received no request for an adjournment or postponement of same from the Applicant's representative, the Tribunal proceeded to hear from the Respondent, Mr Fraser, regarding his position. Mr Fraser confirmed his family circumstances and some background detail in relation to the Property and his dealings with Fife Properties and the Applicant direct (whom he understands to be resident abroad). Mr Fraser confirmed that he is seeking advice from Frontline Fife, has made enquiries about alternative accommodation and does intend to move out of the Property if suitable alternative accommodation can be secured. The Tribunal thereafter 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.”

This was on the basis of the Applicant’s representatives failing to comply fully with the Tribunal’s Direction and failing to attend the CMD.

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.

N Weir

Legal Member/Chair

28 February 2024
Date