



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

Chamber Ref: FTS/HPC/CV/23/2987

Re: Property at 2/5 Lochend Grove, Edinburgh, EH7 5DN (“the Property”)

Parties:

Mr Christopher Gajree, c/o Granton Information Centre, 134-138 West Granton Road, Edinburgh, EH5 1PE (“the Applicant”)

Mr Thomas Castellani, 12 Lawers Square, Penicuik, EH26 8JS (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

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

- Background
- 1. An application was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to compensation due to the Applicant following an illegal eviction from the Property by the Respondent.
- 2. A Case Management Discussion took place on 15 January 2024 by conference call. The Applicant was personally present and represented by Elvira Vila of Granton Information Centre. The Respondent was personally present and represented himself.
- 3. The Applicant’s representative sought a payment order in the sum equivalent to 18 months’ rent due under the tenancy agreement between the parties, as compensation for the Applicant having been illegally evicted from the Property.

The Applicant's representative submitted that the Applicant had been issued with a Notice to Leave and had been intimidated by the Respondent and forced to leave the Property. The Respondent had failed to follow proper process to remove the Applicant by way of a Tribunal order. The Applicant has been residing in a hostel since he left the Property and his mental health has been badly affected. The Applicant's representative submitted that it was accepted that there were some rent arrears at the end of the tenancy but that these were irrelevant and not a defence to an illegal eviction. The Applicant's representative confirmed that the figure sought of the equivalent of 18 months' rent had not been quantified.

4. The Respondent denied that an illegal eviction had taken place. The Respondent submitted that he had issued the Applicant with a Notice to Leave and following which, the Applicant had vacated the Property of his own volition. The Respondent had agreed to store the Applicant's belongings in the Property for a week until the Applicant could collect same.
5. The CMD was adjourned and a hearing fixed, for evidence to be heard as to whether an illegal eviction has taken place.
 - The Hearing
6. On 12 April 2024 the Applicant's representative emailed the Tribunal administration to advise that they had withdrawn from acting on behalf of the Applicant due to a lack of engagement with their service. The Tribunal administration thereafter wrote to the Applicant directly asking him to confirm that he would be attending the hearing personally and representing himself. No response was received.
7. A hearing took place on 22 April 2024, in-person. The Respondent attended personally and represented himself. He was accompanied by an interpreter. There was no appearance by or on behalf of the Applicant.
 - Reasons for Decision
8. The Tribunal noted that no documentation had been lodged in advance of the Hearing by the Applicant nor by the Applicant's representative. In terms of Rule 27 of the Rules, the Tribunal was satisfied that, by virtue of his failure to attend the hearing, the Applicant had failed to cooperate with the First-Tier Tribunal to such an extent that the First-Tier Tribunal could not deal with the proceedings justly and fairly. Accordingly, the Tribunal was satisfied that the application should be dismissed.
 - Decision
9. The First-Tier Tribunal for Scotland, Housing and Property Chamber, dismissed the application.

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.

F Watson

Legal Member/Chair

Date: 22 April 2024