



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/2815

Re: Property at 2/2, 75 Oban Drive, Glasgow, G20 6AD (“the Property”)

Parties:

Mr Arman Zandi, 2/2, 75 Oban Drive, Glasgow, G20 6AD (“the Applicant”)

Mr Gregor Beith, BVM Transport, 3 Deerpark Road, Westfield, Cumbernauld, G68 9HF (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal 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. This is an action for damages raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties dated 23 October 2020, an email dated 10 August 2023 from Maria Grumeau to the Applicant, text messages between the parties dated 8 February – 27 July 2023, an email dated 4 June 2023 from the Respondent to the Applicant, an email dated 27 July 2023 from the Applicant to the Respondent, and an invoice dated 14 August 2023 for £676 from Eloide Sellar to the Applicant.
3. On 11 September 2023 the Tribunal requested that the Applicant provide a receipted invoice for £676 in relation to washing services and details of how that sum was arrived at. He was also requested provide details regarding loss of income of £640 including the details of the company the Applicant was contracted to provide services for, the nature of the services and an

explanation as to why he was holding the Respondent liable for loss of income.

4. On 25 September 2023 the Applicant advised the invoice for £676 was paid and that the Tribunal could contact Ms Sellar for further details. He further advised of the name of the company with whom he was contracted to work as a linguist, namely Sila Nexus Lid, but could not provide further details due to the sensitive nature of his work and suggested that the Tribunal contact Sila Nexus Ltd.
5. On 16 October 2023 the Tribunal emailed the Applicant to confirm it was his responsibility as the Applicant to obtain the information and evidence requested by the Tribunal. The Tribunal again requested a copy of the receipted invoice from Ms Sellar and information regarding his loss of wages.
6. On 30 October 2023 the Applicant emailed the Tribunal to advise he could not disclose more details about his work with Sila Nexus Ltd due to GDPR and their privacy policy, but nevertheless provided some information regarding his work as a linguist.
7. On 22 November 2023, the Tribunal again emailed the Applicant to request an explanation and evidence of his loss of earnings, evidence that his inability to work related to repair appointments or otherwise why the Respondent was responsible for the loss, details to show how the loss of £640 was arrived at with reference to hourly or a daily rate of pay and clarification of the Respondent's name.
8. On 7 December 2023, the Applicant responded by making reference to the documents lodged with the application, by providing details of his hourly rates and that he knew the Respondent as Gregor Beith as shown in the tenancy agreement.
9. On 12 January 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
10. On 26 February 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 18 March 2024. The Tribunal advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 3 April 2024. Sheriff Officers reported they were unable to serve the application on the Respondent as the address was a self storage unit on an industrial estate. The CMD for 3 April 2024 was accordingly postponed.
11. On 6 March 2024 the Tribunal issued a Notice of Direction requiring the Applicant to:-
 - i) submit written submissions setting out the basis upon which the Applicant holds the Respondent liable for maintenance and repair of

the washing machine and fridge freezer with reference to Clause 5 of the tenancy agreement:

ii) provide proof of bank transfer of £676 to Elodie Sellar:

iii) provide a copy of the pay slip from Sila Nexus Ltd showing a deduction of £640 and;

iv) to provide documents to show maintenance issues were arranged to be resolved on 22 and 23 July 2023.

The Tribunal requested these documents be lodged by no later than 20 March 2024. The Applicant did not lodge any of the requested documents.

12. Further on 6 March 2024 the Tribunal emailed the Applicant to advise that as the CMD had been postponed, it proposed that proceedings may continue by means of service by advertisement on the Respondent unless he provided an objection to that by 13 March 2024. No response was received from the Applicant.

13. On 16 April 2024 the Tribunal advised parties that CMD would proceed on 16 May 2024. A copy of the application was served on the Respondent in terms of Rule 6A of the Regulations on the Tribunal website. Further the Tribunal emailed the Respondent on 16 April 2024 to advise him that the application had been received and that service was being advertised.

14. On 17 April 2024 the Respondent emailed the Tribunal requesting a copy of the application be sent to him to the same address that the Sheriff Officers had attempted service at. The Tribunal posted a copy of the application to the Respondent to the address he provided being the same address on the application.

15. On 22 April 2024 the Tribunal emailed the Applicant with reference to the Notice of Direction issued on 6 March 2024, noting he had not complied with that. The Tribunal requested the Applicant lodge all documents in terms of the Notice of Direction with the Tribunal by 30 April 2024. The Applicant did not comply with the Notice of Direction.

Case Management Discussion

16. The Tribunal proceeded with a CMD on 16 May 2024 by way of teleconference. Mr Beith the Respondent appeared on his own behalf. There was no appearance by or on behalf of the Applicant despite the CMD starting 10 minutes late to give him plenty of time to join. The Tribunal was satisfied the Applicant had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.

17. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 23 October 2020, an email dated 10 August 2023 from Maria Grumeau to the Applicant, text messages between the parties dated 8 February – 27 July 2023, an email dated 4 June 2023 from the Respondent to the Applicant, an email dated 27 July 2023 from the Applicant to the Respondent and an invoice dated 14 August 2023 for £676 from Eloide Sellar to the Applicant.
18. Mr Beith explained that the application had come as a surprise to him. He explained the tenancy had ended in October 2023 and that the Applicant had never mentioned any of the matters raised in the application. He explained that he did not believe the Applicant had incurred any losses and appeared to be connected to the people who had issued the invoices.

Reasons for Decision

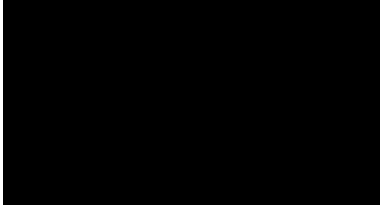
19. The Tribunal considered the issues set out in the application together with the documents lodged. The Tribunal was not satisfied that the Applicant had produced any evidence of alleged losses. The Tribunal took account of the fact that the Tribunal had asked the Applicant on numerous occasions, including by way of a Notice of Direction, for proof of payment and loss of wages. The Applicant had failed to provide this information to the Tribunal in support of his application. He had provided no proof of loss of wages, proof of payment to Ms Sellar or how those matters could be attributed to the Respondent. The Applicant had not appeared before the Tribunal at the CMD. Further the Tribunal considered Mr Beith's submissions.

Decision

20. The Tribunal not having any evidence of loss, the Applicant having repeatedly failed to respond to the Tribunal's requests for such evidence, 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.



16 May 2024

Legal Member

Date