



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/23/2151

Re: Property at 2 Newton Street, Blairgowrie, PH10 6DJ (“the Property”)

Parties:

Mrs Joyce Coupar, Blairs Laundry, Emma Street, Blairgowrie, PH10 6NX (“the Applicant”)

Ms Laura Brown, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Member:

Shirley Evans (Legal Member)

Decision

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 recovery of possession of the Property raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The application was accompanied by part of a Notice to Leave.
2. On 30 June 2023 the Tribunal requested the Applicant forward a full copy of the Notice to Leave with proof of postage, a copy of the Section 11 Notice in terms of the Homelessness etc (Scotland) Act 2003 with evidence the S11 Notice had been served.
3. On 3 July 2023 the Applicant forwarded a copy of the Notice to Leave and a screenshot of a photograph and a copy of the S11 Notice with email to Perth and Kinross Council.

4. On 3 August 2023 the Tribunal requested the Applicant provide the addresses for the Applicant and representative, information regarding the tenancy including the names of all tenants, the start date and the rent payable, a rent statement, a copy of the Notice to Leave and proof of service as the Notice previously provided appeared invalid and evidence the Property was owned by the Applicant.
5. The Applicant did not reply to that email. The Tribunal requested the information again on 18 September 2023.
6. On 22 September 2023 the Applicant confirmed the Applicant's address, clarified the position with regard to the Notice to Leave, a copy of the Applicant's title and information regarding the tenancy.
7. On 23 October 2023 the Tribunal again requested a copy of the S11 Notice with proof of service.
8. On 26 October 2023 the Applicant sent a photograph of part of a S11 Notice which she advised was served on 29 June 2023.
9. On 20 November 2023 the Tribunal requested a copy of the complete S 11 Notice which could be read, clarification of how the Notice to Leave was served and clarification of how the screenshot of a photograph related to delivery of the Notice to Leave and a copy of the tenancy agreement.
10. On 22 November 2023 the Applicant attached a further copy of section 11 and stated proof of service had already been provided. She advised the Notice to Leave was served on the 14 April 2023 and as there was no response a photograph was taken and submitted the date on the Notice to Leave was correct. She clarified the tenant's name and that the lease and laptop this was created on were destroyed by a fire on the 29 October 2022.
11. On 18 December 2023, the Tribunal accepted the application under Rule 9 of the Regulations.
12. On 12 February 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 4 March 2024. The Tribunal advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 26 March 2024. This paperwork was served on the Respondent by Roderick Stevenson, Sheriff Officer, Kirkcaldy 13 February 2024 and the Execution of Service was received by the Tribunal administration.
13. On 5 March 2024 the Tribunal issued a Notice of Direction requesting an up to date rent statement and copies of any letters issued to the Respondent in terms of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

14. On 13 March 2024 the Applicant sent an Excel spreadsheet showing the rent position. No copy letters were attached. This spreadsheet stated next to the date of 20 January 2024 that -

***“believe this to be correct date of tenancy end, door was forced open and keys left on stairs not put through letter box
we had to change the lock on the 16th January after noticing all windows were left open for 3 days and unable to contact tenant”***

15. On 15 March 2024 the Tribunal emailed the Applicant to advise they were not satisfied the application had been validly served on the Respondent in light of that information which indicated the tenancy had ended and advised the CMD assigned for 26 March 2024 had been discharged. The Tribunal sought confirmation as to whether the Applicant wished to proceed with the action and of so requested an up to date address failing which requested whether the Applicant was seeking service by advertisement.

16. On 5 April 2024 the Applicant confirmed she wished to proceed and that she was attempting to trace the Respondent who it was believed still lived locally.

17. On 11 April 2024 the Tribunal requested that the Applicant revert to them by 26 April 2024.

18. On 1 May 2024 the Tribunal requested confirmation as to whether the Applicant wished to proceed with the action. No response has been received from the Applicant.

Decision

19. The Tribunal accordingly dismisses the action in terms of Rule 27 of the Regulations as the Applicant has failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings.

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.

S.Evans

12 July 2024

Legal Member

Date