



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/3173

Re: Property at 39 Langdykes Avenue, Cove, Aberdeen, AB12 3FU (“the Property”)

Parties:

Mr Robert O'Neill, Ms S O'Neill, Adelaide House, 34 High Street, Edzell, Angus, DD9 7TA; UNKNOWN, UNKNOWN (“the Applicants”)

Mr John Allan, 37 Kinlouch Crescent, Rosewell, Midlothian (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of both parties)

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

Background

1. By application dated 8 September 2023 the Applicant’ representatives, Stonehouse Lettings, Aberdeen, applied to the Tribunal for an order for payment in respect of a Guarantor Agreement entered into between the parties arising from a Private Residential Tenancy between the Applicants and Christopher Allan and Kayla Ewan that commenced on 29 April 2022 and ended on 3 October 2022. The Applicants claimed that the Respondent owed the Applicants the sum of £2991.27.
2. Following further correspondence between the Tribunal administration and the Applicant’s representatives, by Notice of Acceptance dated 6 March 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 31 May 2024.
4. By Email dated 5 June 2024 the Respondent submitted written representations to the Tribunal.
5. By email dated 13 June 2024 the Applicants new representatives, D J Alexander, Edinburgh, advised the Tribunal of their appointment.

The Case Management Discussion

6. A CMD was held by teleconference on 4 July 2024. Neither party attended or was represented. The start of the CMD was delayed for several minutes to give the parties additional time to join the conference call without success. Thereafter the legal member asked the Tribunal Clerk to contact the Applicants' representatives by telephone to ascertain why they were not participating in the CMD. After trying the two telephone numbers provided by the Applicants' representatives the Tribunal clerk advised the Tribunal that she had been unable to contact the Applicants representatives.
7. In the absence of attendance from either party or any representatives the Tribunal was not in a position to proceed with the CMD and determined to dismiss the application.

Reasons for Decision

8. In terms of Rule 27(2)(b) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 the Tribunal may dismiss the proceedings if the Applicant has failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings justly and fairly. In the absence of the Applicants or their representatives the Tribunal was unable to properly consider the Applicants' claim and was unable to deal with the proceedings justly or fairly. No explanation was provided for the failure of the Applicants representatives to attend the CMD and no request for a postponement had been made. In the circumstances it was appropriate to dismiss the application.

Decision

9. The application is dismissed.

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.

Graham Harding
Legal Member/Chair

4 July 2024
Date