



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/CV/23/2885

Re: Property at 453 Kingspark Avenue, Glasgow, G73 2AS (“the Property”)

Parties:

Mr Rana Mohammed Aslam, 66 Rosendale Road, Glasgow, G41 3RH (“the Applicant”)

Ms Donna Holmes, formerly of 453 Kingspark Avenue, Glasgow, G73 2AS (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Tony Cain (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 received on 22 August 2023, the Applicant sought an order for payment against the Respondent in respect of rent arrears in the sum of £8,165 plus interest thereon at the rate of 8%. Supporting documentation was submitted with the application, including a copy of the Tenancy Agreement and rent statement. An application for an eviction order was also lodged, together with this application and the applications were conjoined. The eviction application has reference FTS/HPC/EV/23/2883. It was unopposed by the Respondent and granted on 6 December 2023. The Respondent has now vacated the Property as of 23 April 2024.
2. On 7 September 2023, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance in respect of this application in terms of Rule 9 of the Regulations. Papers were served on the

Respondent. No written representations were lodged by the Respondent prior to the Case Management Discussion (“CMD”).

3. The CMD took place on 6 December 2023 at 10am by telephone conference call. The CMD was attended on behalf of the Applicant by Ms Kirsty Donnelly, Solicitor of TC Young solicitors and Ms Simone Callaghan, Paralegal, also of TC Young, in the capacity of observer only. The Respondent, Ms Donna Holmes was also in attendance.
4. Following discussions at the CMD, issues in dispute were noted and the application was adjourned to an Evidential Hearing, details to be arranged, and a Direction issued to parties.
5. On 5 February 2023, notification of the date, time and arrangements for the Evidential Hearing to take place on 20 March 2024 at 10am were issued to the Applicant’s legal representatives and to the Respondent.
6. On 11 March 2024, the Applicant’s legal representative intimated to the Tribunal that she had withdrawn from acting for the Applicant and had intimated this to him. The Tribunal sent this notification to the Applicant and Respondent, and also sent a copy of the CMD Note and Direction dated 6 December 2023 to the Applicant. The Tribunal’s communications to the Applicant were sent by Recorded Delivery post on 11 and 12 March 2024.
7. There was no communication from, nor response to the Direction, by either party prior to the Evidential Hearing on 20 March 2024.

Evidential Hearing – 20 March 2024

8. The Evidential Hearing was to take place by telephone conference call on 20 March 2024 at 10am. However, only the Respondent was in attendance. The commencement of the hearing was delayed by 5 minutes to allow an opportunity for the Applicant to join late but he did not do so.
9. It was ascertained by the Clerk, from the Royal Mail’s ‘track and trace’ service that the communications sent to the Applicant by the Tribunal by recorded delivery post were showing as not yet having been delivered to the Applicant.
10. There was discussion with the Respondent, following which the Tribunal decided to adjourn the Evidential Hearing to a later date to allow the service/delivery of the Tribunal papers on the Applicant. The Legal Member explained that a further Direction would be issued to the Applicant, requiring him to clarify his position in respect of the payment application as soon as possible.
11. Following the Evidential Hearing Note and Direction were issued and sent to the Applicant by Recorded Delivery post on 8 April 2024. The Direction required the Applicant to advise the Tribunal of his intentions in respect of this application within 21 days of the Direction dated 20 March 2024. If proceeding with the

application, the Direction also required the Applicant to lodge specified documentation in support of his claim. No response was received from the Applicant who therefore failed again to comply with the Tribunal's Direction.

12. A further Evidential Hearing was fixed for 15 August 2024 at 10am and again, notification of same was sent to the Applicant by Recorded Delivery post on 23 July 2024. No response was received from the Applicant prior to the Evidential Hearing.

Evidential Hearing – 15 August 2024

13. The further Evidential Hearing was to take place by telephone conference call on 15 August 2024 at 10am. However, only the Respondent was in attendance. The commencement of the hearing was delayed by 5 minutes to allow an opportunity for the Applicant to join late but he did not do so.
14. Following introductions and introductory comments by the Legal Member, it was noted from the Respondent that she has now vacated the Property, as at 23 April 2024, and has been re-housed by the local authority in temporary accommodation. She has not had any direct communication from the Applicant meantime.

Decision

15. The Tribunal determined that the application be dismissed in terms of Rule 27(2)(b) 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 failure to communicate with the Tribunal following his legal representative withdrawing from acting for him; comply with the Tribunal's Directions of 6 December 2023 and 20 March 2023; and failing to attend the Evidential Hearings on 20 March 2023 and 15 August 2023.

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

15 August 2024
Date