



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 109 and 111 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/0951 AND CV/24/0952

Re: Property at 40F Well Street, Paisley, PA1 2PQ (“the Property”)

Parties:

Mr David Williams, 7 Glencart Grove, Kilbarchan, PA10 2DH (“the Applicant”)

Landlord Specialist Services Scotland, 5 South Charlotte Street, Edinburgh, EH2 4AN (“the Applicant’s Representative”)

Ms Carly Burns, 40F Well Street, Paisley, PA1 2PQ (“the Respondent”)

Tribunal Members:

Ms Susanne Tanner KC (Legal Member) and Mr Ahsan Khan (Ordinary Member)

Decision (in absence of the Applicant’s Representative and the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refused the Applications for eviction and a payment order.

The decision of the tribunal was unanimous.

Statement of Reasons

1. On 27 February 2024, the Applicant’s Representative made joined applications for an eviction order and a payment order under sections 109 and 111, respectively of the Private Housing (Tenancies) (Scotland) Act 2016.
2. Both Applications were accepted for determination by the tribunal.

3. On 13 June 2024 both parties were notified that a Case Management Discussion (CMD) in relation to both applications would take place on 23 July 2024 at 1000h by conference call, in which they were required to take part.
4. Service of notification on the Applicant's Representative was made by email to the email address provided and used by the Applicant's representative in correspondence with the tribunal. Service of notification and the Application paperwork on the Respondent was by Sheriff Officers.
5. The Respondent was requested to submit any written representations in response to the Application by 4 July 2024. The Respondent did not submit any written representations in response to the Application.
6. The CMD took place on 23 July 2024 at 1000h by conference call. The Applicant's Representative did not attend. The Respondent did not attend.
7. The tribunal clerk contacted the Applicant's Representative on the business landline number provided to the tribunal when the Application was made. The call went to voicemail. The tribunal clerk left a voicemail message asking the Applicant's Representative to contact the tribunal. The tribunal clerk then contacted the Applicant's Representative on the business mobile number provided to the tribunal when the Application was made. The call went to voicemail. The tribunal clerk left a further voicemail message. The Applicant's Representative did not contact the tribunal. The conference line for the CMD was left open until 10.20 and neither party joined the call.
8. The tribunal decided to proceed with the eviction and civil Applications in the absence of the Applicant's Representative and the Respondent. The tribunal was satisfied that the requirements of rule 24(1) of the 2017 Rules regarding the giving of notice of a CMD had been duly complied with and proceeded with the Applications upon all the material before it.

Discussion

9. The tribunal decided to refuse both Applications for want of insistence by the Applicant's Representative, the tribunal having notified the parties of the CMD and the Applicant's Representative having failed to attend; and having been given further opportunity during the CMD when the tribunal clerk contacted the office and mobile telephone numbers. In any event, the Applicant's Representative had not supplied evidence of compliance with the pre-action protocol requirements, or an updated rent statement, which the tribunal would have required to consider in relation to the Applications; and no written submissions had been made in relation to reasonableness of making the eviction order.

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 Tanner

**Ms Susanne Tanner KC
Legal Member/Chair**

23 July 2024