



Decision 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/23/4284

Re: Property at 23 Union Place Flat E(3/0), West End, Dundee, DD2 1AB (“the Property”)

Parties:

Mr David Young, Mrs Jacqueline Michelle Young, 30 Marykirk Road, Thornaby, Stockton on Tees, TS17 9HW (“the Applicants”)

Miss Gillian Charisse Fronda, Miss Andrea Casono, Miss Beatrice Ryan, 26 Ridley Drive, Rosyth, Dunfermline, KY11 2EH; 120 Marsh Road, Rhyl, Wales, LL18 2AH; 12 Ellis House, Brandon Street, London, SE17 1EA (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in absence of the Applicants and Third Respondent)

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

Background

1. The Applicants submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicants sought an order for payment in respect of rent arrears said to have been incurred by the Respondents.
2. By decision dated 28 December 2023, a Convenor of Housing and Property Chamber having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Tribunal intimated the application to the parties by letter of 8 May 2024 and advised them of the date, time and conference call details of a CMD on 3 June

2024. The Tribunal postponed the CMD administratively because service of the application on the Respondents had been unsuccessful.

4. On 17 June 2024, the Tribunal intimated to the parties that a new CMD had been assigned for 18 July 2024. The Respondents were invited to make written representations by 8 July 2024.
5. On 5 July 2024, the Tribunal received written representations from the Respondents and a copy was sent to the Applicants' representative.

The case management discussion

6. The First and Second Respondents joined the conference call. The Applicants and the Third Respondent did not join the conference call and the discussion proceeded in their absence. The Tribunal explained the purpose of the CMD. The Tribunal noted that the parties had already been involved in Tribunal proceedings and that a decision had been issued on 13 May 2024 in relation to a case which proceeded under chamber reference FTS/HPC/CV/23/2054. The Tribunal enquired whether there had been any contact between the parties since that decision was issued. The First and Second Respondents explained that following the decision in May 2024, they had been in contact with the Applicants' representative and that the Applicants paid the Respondents the full sum of £2,307.86. The First and Second Respondents advised that there had been no discussion about the present case. The Tribunal highlighted paragraph 26 of the decision of 14 May 2024 and enquired why the full sum of £2,307.86 had been paid, but the First and Second Respondents could not assist with that enquiry. They invited the Tribunal to dismiss the present application on the basis that the Applicants did not participate. The Tribunal acceded to the Respondents' motion and dismissed the application for want of insistence.

Reason for Decision

7. Rule 27 (2) of the Procedure Rules sets out:-

(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.

8. In the absence of Applicants at the CMD, the Tribunal was unable to determine the application justly or fairly.

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.

Nicola Irvine

Legal Member/Chair

18 July 2024

Date