



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”) and Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/PR/24/1062

Re: Property at Flat 43 Cumnor Crescent, Edinburgh, EH16 6BD (“the Property”)

Parties:

Mr Kazim Abbas, 22 Mainwood Road, Timperley, Altrincham, Manchester, WA15 7BX (“the Applicant”)

Mr David McQueen, present whereabouts unknown (“the Respondent”)

Tribunal Member:

Ms. Susanne L. M. Tanner K.C., Legal Member and Chair

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) refused the Application.

Procedural background

1. On 29 February 2024, the Applicant made an application (“the Application”) to the tribunal in terms of Rule 103 of the 2017 Rules, namely an application for an order for payment where the landlord (Respondent) has failed to carry out duties in relation to a tenancy deposit.
2. The Applicant attached screenshots to the Application which were unable to be read.

3. On 4 March 2024, the tribunal requested additional information from the Applicant. On 4 March 2024, the Applicant provided further information.
4. On 5 March 2024, the tribunal searched the Landlord Registration Scotland register and found that the Property is not in the Register.
5. On 8 March 2024, the tribunal requested additional information from the Applicant. On 8 March 2024, the Applicant provided further information.
6. On 13 March 2024, the tribunal requested additional information from the Applicant. On 21 March 2024, the Applicant provided further information.
7. On 15 March 2024, the tribunal received correspondence from Registers of Scotland confirming that the Property is part of larger subjects owned by the local authority as follows: City of Edinburgh District Council (Search Sheet Midlothian 156373).
8. On 22 March and 12 April 2024, the tribunal requested additional information from the Applicant. The tribunal requested an address for the Respondent failing which an application for Service by Advertisement.
9. On 16 April 2024, the Applicant made an application for Service by Advertisement on the Respondent, stating that: the Respondent's address is unknown; the Applicant asked the Respondent to provide an address and it was not given; the Respondent is using the Property as a correspondence address; and the Property is a council property which is sub-let to tenants.
10. On 30 April 2024, the Application was considered by a legal member acting with the delegated power of the President and the Application was accepted for determination.
11. On 1 May 2024, the tribunal notified the Applicant that the application had been accepted and would proceed to a tribunal for determination. The tribunal told the Applicant that further information would be sent as to how the Application would progress; and that as the address of the Respondent is unknown, proceedings will continue by means of service by advertisement on the tribunal website.
12. On 20 June 2024, the tribunal notified the parties that the Application had been referred to the tribunal and that a Case Management Discussion ("CMD")

teleconference had been fixed for 31 July 2024 at 1000h, which both parties were required to attend. The Applicant was notified by email to the email address he had provided to the tribunal and given consent for it to be used. The Respondent was notified by Service by Advertisement. Parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application. Parties were advised that if they did not attend the CMD, this would not stop a decision or order from being made by the tribunal if the tribunal considered that it has sufficient information before it to do so and the procedure has been fair. The Respondent was invited to submit any written representations he wished by 7 September 2022. The Application paperwork and notification of the teleconference was served on the Respondent by Sheriff Officers.

13. The Respondent was served by advertisement on the tribunal's website from 20 June 2024 to 31 July 2024.

14. The Respondent did not lodge any written submissions or make any contact with the tribunal's administration.

15. The Applicant did not make any further contact with the tribunal's administration.

Case Management Discussion ("CMD") – 31 July 2024 1000h – by teleconference

16. The Applicant did not attend and did not make any contact with the tribunal's administration.

17. The Respondent did not attend and did not make any contact with the tribunal's administration.

Discussion

18. The tribunal rejected the Application for want of insistence by the Applicant given his failure to attend the CMD or to make any contact with the tribunal to request a postponement to an alternative date.

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.

31 July 2024

Ms. Susanne L M Tanner K.C.
Legal Member/Chair