



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/2708

Re: Property at Flat 75 Floor 17 20 Dumbreck Court, Glasgow, G1 5NJ (“the Property”)

Parties:

Mr Muhammad Abdullah Farhat, 22 Braeside Avenue, Moodiesburn, G69 0EQ (“the Applicant”)

Mr Shakir Ravand, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make no order

Background

- 1 By application to the Tribunal dated 9th August 2023 the Applicant sought a payment order against the Respondent under Rule 111 of The First-tier for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Procedure Rules”). The application was based on the Respondent not returning a deposit and first month’s rent payment. In support of the application the Applicant provided excerpts from his online banking showing payments made to the Respondent. By Notice of Acceptance of Application a Legal Member of the Tribunal with delegated powers from the Chamber President intimated that there were no grounds to reject the application.
- 2 On 10th October 2023 the Applicant and Respondent were sent notification of the Case Management Discussion (“CMD”) of 15th November 2023 at 10am by teleconference. Sheriff officers attempted to effect service on the Respondent but were unable to do so as it appeared that the Respondent had sublet the

Property. Phone numbers were given for the Respondent but he did not contact the sheriff officers. The CMD was therefore postponed and a new date was set for 24th January 2024 to allow for service of the application paperwork on the Respondent.

- 3 On 29th November 2023 the Applicant and Respondent were sent notification of the date for the CMD of 24th January 2024 at 2pm by teleconference. Service by Advertisement was undertaken upon the Respondent from 29th November 2023 to 23 January 2024.

The Case Management Discussion

- 4 The CMD took place on 24th January 2024 at by teleconference. The Applicant was present and represented himself. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the CMD.
- 5 The Applicant explained that he was a student. He wanted to move his wife and family to live here from abroad. He joined a Facebook forum and asked if there was any properties available. He was contacted by the Respondent. After that there was a series of text message between parties. The Applicant believed at that point that the Respondent owned the Property and had a tenant in it previously.
- 6 The Applicant had liked the Property and offered to pay a deposit to secure it. Initially the Respondent said that he did not need that. The Respondent then contacted the Applicant and asked for a deposit. The Applicant paid over £100 to the Respondent. The Respondent then contacted him the next day to say that he needed the deposit of £650. The Applicant refused until such time as he had the lease signed. The Respondent said that he would return the initial payment back to him if he did not so and let the Property to someone else. The Applicant then paid £500 as a deposit to the Respondent. The Applicant then said that he needed to buy more furniture as the previous tenants had taken it. The Respondent sent a photo of the bed that he was to buy. He said that he would return the Applicant's money. This happened several times regarding different matters. This caused the Applicant to make further payments of different amounts to the Respondent.
- 7 The Applicant asked the Respondent several times for his money back. He did this by text and tried to phone him. He had no response. He contacted the Police but they did not pursue this as a fraudulent matter. He had told the Police about the Respondent threatening him. The Police investigated this further. The Applicant also said that he had contacted his bank but had not had any assistance from them.
- 8 The Applicant said that he had taken a Private Rent Tenancy agreement to the Respondent. He had gone to the Property with this and it was signed. The Respondent told the Applicant that it was his duty to provide a copy of the lease for both parties. The Applicant believes that the Respondent kept it. The

Respondent told the Applicant that he did not want to have to have a long piece of paperwork like that but would rather it was one page only. The Respondent told the Applicant that he would need to prepare this. The Applicant did and returned to get it signed. He believed that he still had the copy. He was told, on the day that he was moving, by the Respondent that he could not let the Property to him as the local council had seen him move his belongings in and had objected to him being there. The Respondent then said that the Applicant could not live in the Property. The Applicant had since believed that the Respondent never owned the Property and that it is owned by Glasgow Housing Association.

- 9 The Tribunal had concerns that this was not a matter for the Housing and Property Chamber. The Housing and Property Chamber has jurisdiction over cases arising from a tenancy. In this case there was no tenancy. Further there was no ability for this to ever be a tenancy as the Respondent did not have title to be the landlord of the Property. It was impossible for a lease to be entered into by the parties. The Tribunal was of the view that this is a matter for the Sheriff Court.
- 10 The Tribunal therefore continued the application to a further CMD for the Applicant to get representation and then for the question of jurisdiction to be investigated. A Direction was issued requiring the Applicant to provide the following information:-
 - (i) A copy of all leases signed;
 - (ii) Copies of all text messages between parties;
 - (iii) Outcome of the Police investigations;
 - (iv) A full legal submission on if this Tribunal has jurisdiction over this matter given that the Respondent had no ability to enter into a lease and therefore the matter does not derive from the lease. The submission is to address the role of the Sheriff Court and whether it has jurisdiction;
 - (v) Details of the country that the Applicant would dial into the CMD from no less than six weeks before the next CMD if he is to dial in from somewhere other than the UK.
- 11 There was no response to the Direction from the Applicant.
- 12 The second CMD took place on 8 May 2024 by teleconference. The Applicant was in attendance. The Respondent was not present. The Tribunal noted that he had been given notification of the CMD by service by advertisement on the Tribunal's website and determined to proceed in his absence.
- 13 The Tribunal noted that it had received no documentation from the Applicant in response to the Direction issued following the previous CMD. The Applicant advised that he had screen shots of bank transactions, text messages and a copy of what he believed to be the lease however due to other matters he had been unable to submit these. He confirmed that he was remaining in the UK and was looking for work which had made it difficult to focus on the Tribunal proceedings. The Applicant further advised that he had consulted a solicitor, who

was recommended by a friend, but he could not afford to pay him therefore he had been unable to take legal advice. The Tribunal therefore determined to adjourn the CMD to a future date to allow the Applicant a final opportunity to respond to the Direction. The Tribunal further advised the Applicant that he could seek legal advice from a free advice agency, such as Shelter Scotland, and that there were links for other advice agencies on the Tribunal's website.

- 14 The third CMD took place on 6 September 2024 by teleconference. Neither party was in attendance. The Tribunal noted that there had been nothing submitted by the Applicant following the previous CMD. The Tribunal allowed a period of 15 minutes to see if the Applicant would join the call but he did not do so.

Reasons for Decision

- 15 In terms of section 70(1) of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal can determine applications for civil proceedings arising from a private residential tenancy. The Applicant has failed to establish the nature of the contractual relationship between the parties in this case. The only evidence he has produced are excerpts from his online banking account. As a result the Tribunal cannot be satisfied that it has jurisdiction in this case in the absence of any further evidence from the Applicant.
- 16 The Tribunal had identified at the first CMD that it had insufficient information to reach a decision on the application. The Applicant was therefore given clear instructions on what he required to submit to the Tribunal. He was given two opportunities to provide the information requested but failed to do so, and failed to provide any explanation for his absence at the third CMD, despite having been given proper notification of same.
- 17 The Tribunal therefore determined to make no order. 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.

Legal Member:

Date: 06 September 2024

R.O'Hare

