



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/23/4570

Re: Property at 2/2 27 Ogilvie Street, Dundee, DD4 6SE (“the Property”)

Parties:

LKS Properties Ltd, The Mill, Waterybutts Farm, Grange, Errol, PH2 7SZ (“the Applicant”)

Mr David Strachan, 2/2 27 Ogilvie Street, Dundee, DD4 6SE (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of both parties)

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

Background

1. By application dated 19 December 2023 the Applicant’s representatives, Struan Baptie Property Management Ltd, Dundee, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, Notice to Leave, Section 11 Notice together with other documents in support of the application.
2. By Notice of Acceptance dated 19 January 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 1 March 2024.

4. A CMD was held by teleconference on 9 April 2024. The Applicant was represented by Ms Melissa Coleman from the Applicant's representatives. The Respondent did not attend. The CMD was continued to monitor payments by the Respondent.
5. A further CMD was held by teleconference on 17 June 2024. The Applicant was again represented by Ms Coleman. Once again the Respondent did not attend. The Tribunal noted that the rent arrears had continued to reduce to £1162.00 and continued the CMD again to monitor payments and to see if the Respondent found a new tenancy.
6. By emails dated 11 September, 2 and 3 October 2024 the Applicant's representatives submitted updated rent statements to the Tribunal. The rent due by the Respondent as at 2 October 2024 amounted to £485.00.
7. By email dated 9 October 2024 the Respondent advised the Tribunal that he was unable to attend the CMD on 10 October due to a change in his work rota. He also submitted that he was close to clearing his rent arrears.

The Case Management Discussion

8. A CMD was held by teleconference on 10 October 2024. Neither party attended or was represented. After delaying the commencement of the CMD for ten minutes the Tribunal instructed the Tribunal Clerk to contact the Applicant's representatives by telephone to try to ascertain the Applicant's position. The Tribunal Clerk was unable to contact both Ms Coleman or the Applicant's representative's main office.
9. After considering the progress that had been made by the Respondent to effectively remove the rent arrears from what had at the commencement of the proceedings been a substantial amount and given the failure of the Applicant or its representatives to participate in the CMD the Tribunal determined it should dismiss the application in terms of the Rule 27(2)(b) of the First-tier Tribunal for Scotland Housing and Property (Procedure) Regulations 2017.

Decision

10. 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.

Graham Harding

**Graham Harding
Legal Member/Chair**

**10 October 2024
Date**