



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and Rule 109 of the Rules

Chamber Ref: FTS/HPC/EV/24/0141

Re: Property at 80 Chandlers Court, Stirling, FK8 1NR (“the Property”)

Parties:

Mrs Johanne Bakke, residing at PB87 Etheclals Vegan, 795 Ernedal, Norway, 2893, Norway (“the Applicant”) per her agents, Pacitti Jones, 6, Havelock Street, Glasgow, G11 5JA (“the Applicant’s Agents”)

Miss Rebekha Butterworth and Mr. Kenneth Murphy, both residing at 80 Chandlers Court, Stirling, FK8 1NR (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of both Parties)

Decision

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

Background

1. By application 5 January 2024 (“the Application”), the Applicant’s agents applied to the Tribunal for an Order for eviction based on Ground 12 of the Act that there are arrears of over three consecutive months. The Application comprised copy Notice to Leave in terms of Ground 12 of Schedule 3 to the Act with proof of service, copy rent ledger dated 21 December 2023 showing arrears of £4,750.00 and no payments since 11 August 2023 and copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Stirling Council, being the relevant local authority. The Applicant’s Agents submitted a copy of the tenancy agreement between the Parties showing a monthly rent of £850.00.

2. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the "CMD") was fixed for 19 August 2024 at 10.00 by telephone conference and intimated to the Parties. In particular, the CMD was intimated to both Respondents by Sheriff Officer on 17 July 2024.
3. Prior to the CMD, the Applicant's Agents lodged a second Notice to Leave dated 29 March 2024 in terms of Ground 12A of Schedule 3 to the Act and submitted that the rent due and owing had increased.

CMD

4. The CMD took place on 19 August 2024 at 10.00 by telephone conference. Neither the Applicant nor the Applicant's Agents took part. Neither Respondent took part, and neither was represented nor submitted written representations.

Issue for the Tribunal

5. The Tribunal had no information or indication that an Order was still sought and had no evidence to determine if it was reasonable to grant an Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*" The Tribunal took the view that as it had insufficient information to make a decision to grant the Application, it was bound to dismiss the Application.

Decision of the Tribunal.

6. As the Tribunal could not be certain that an Order was sought or that it was reasonable to grant an Order, the Tribunal dismissed the Application and made no 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.

Legal Member/Chair

19 August 2024
Date