



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the Act”)

Chamber Ref: FTS/HPC/CV/24/0886

Re: Property at 12 Ailsa Court, Hamilton, ML3 8XJ (“the Property”)

Parties:

Anchor Properties Residential Ltd, Beechfield House Meikle Earnock Road, Hamilton, ML3 8RN (“the Applicants”)

Mr Martin Collins, 12 Ailsa Court, Hamilton, ML3 8XJ (“the Respondent”)

Tribunal Members:

Steven Quither (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) UNANIMOUSLY determined that the application be dismissed in terms of Rule 27(2)(b) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”).

BACKGROUND

1. This an application for payment of rent arrears arising out of a Private Residential Tenancy (“PRT”) between the parties in respect of the Property commencing 10 December 2019.
2. The application was lodged with supporting documentation on 21 February and, after clarification of certain issues in respect of this case and associated case EV/24/0889, was accepted by Notice of Acceptance of 15 May, both 2024, with a Case Management Discussion (“CMD”) thereafter being fixed for 8 October, also 2024.

CASE MANAGEMENT DISCUSSION on 8 OCTOBER 2024

3. The CMD duly took place by teleconference on 8 October, with only the Respondent attending.
4. Efforts were made to contact the Applicants' agent, Ms Franchitti of Property Angels Letting & Management Ltd, Uddingston and the Tribunal was advised that she was dealing with the case but had been unable to attend the CMD due to family commitments.
5. The Tribunal was also advised that an email advising of Ms Franchitti's unavailability for the CMD had been sent to the Tribunal on 7 October, but no such email could be located.
6. In any event, a further CMD was then fixed for 17 January 2025 at 2pm which was confirmed to parties by letters of 4 December 2024.
7. In addition, the Applicants' agents were sent a note of the CMD outcome by email of 18 October 2024.

CASE MANAGEMENT DISCUSSION on 17 JANUARY 2025

8. On 17 January 2024, the CMD again took place by teleconference. However, neither party attended.
9. The Tribunal noted the CMD Note from the previous CMD on 8 October 2024 specified a further CMD on 17 January 2025 at 2pm.
10. In addition, the Tribunal took account of said email of 18 October and said letters to parties of 4 December 2024.
11. Accordingly, the Tribunal was satisfied, in the absence of any information to the contrary, that the parties were aware of today's CMD but, for some reason, had not attended.
12. In these circumstances, the Tribunal therefore considered whether it was entitled to dismiss the application under Rule 27(2)(b) of the Rules, on the basis that the Applicants having, ostensibly at least, been aware of the date and time of the CMD, then failed to attend same.
13. Said Rule states:--

"Dismissal of a party's case

27.—(1) The First-tier Tribunal must dismiss the whole or a part of the proceedings if the First-tier Tribunal does not have jurisdiction in relation to the proceedings or that part of them.

(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.”

14. In the circumstances ie the Applicants’ lack of attendance, the Tribunal decided that the Applicants had failed to co-operate with the Tribunal to such an extent that it could not then comply with its overriding objective of dealing with the proceedings justly and fairly and that accordingly the application fell to be dismissed in terms of said Rule 27(2)(b).

DECISION

17. To dismiss the proceedings under Rule 27(2)(b) of the Rules.

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.

S. Quither

17 JANUARY 2025

Legal Member/Chair

Date