



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/24/0728

Re: Property at 35 Gateside Crescent, Airdrie, North Lanarkshire, ML6 6NH (“the Property”)

Parties

Mr Lendrick Gillies, per his Trustee in Sequestration, Craig Morrison C.A., Turnberry House, 175 West George Street, Third Floor, Glasgow G2 2LB, (“the Applicant”)

Mr Ryan Martin, Miss Kayleigh Nimmo, 35 Gateside Crescent, Airdrie, North Lanarkshire, ML6 6NH (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Applicant)

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

Background

1. By application dated 13 February 2024 the Applicant’s representatives, Aquila Management Services, Airdrie, applied to the Tribunal for an order for the eviction of the Respondents from the property under ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) as the Applicant intended to sell the property. The Applicants submitted a copy of the tenancy agreement together with a Notice to Leave, Section 11 Notice, letter appointing sales agent and letter of authority in support of the application.
2. By Notice of Acceptance dated 12 March 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 31 May 2024.
4. A CMD was held by teleconference on 3 July 2024. The Applicant was represented by Mr Paul Clark from the Applicant's representatives. The Respondents attended in person. Mr Clark advised the Tribunal that the Applicant had been sequestered on 11 June 2024 and Mr Craig Morrison C.A. appointed as his Trustee in Sequestration. In the circumstances the Tribunal adjourned the CMD to allow the Trustee to become a party to the application.
5. Intimation of Mr Morrison's appointment as Trustee was provided to the Tribunal and the application was amended accordingly.
6. A further CMD was held by teleconference on 14 November 2024. The Respondents attended in person. The Applicant did not attend and was not represented. Attempts by the Tribunal Clerk to contact the Applicant's representative by telephone were unsuccessful. The Tribunal adjourned the CMD to a further CMD to give the Applicant's representative a further opportunity to attend.

The Case Management Discussion

7. A further CMD was held by teleconference on 28 January 2025. The Respondents attended in person. The Applicant did not attend and was not represented.
8. The Tribunal noted from Ms Nimmo that other than someone coming to view the property possibly with the intention of purchasing it and another person, possibly a surveyor inspecting the property there had been no communication from the Applicant or his representatives.
9. The Tribunal noted that there had been no communication from the Applicant's representatives to the Tribunal administration.
10. Ms Nimmo advised the Tribunal that the Respondents were continuing to reduce the rent arrears which now amounted to £1400.00.

Reasons for Decision

11. The overriding objective of the Tribunal is to deal with proceedings justly and this includes avoiding delays. The Tribunal determined to adjourn the proceedings on 14 November after trying to contact the Applicant's representative by telephone without success. Since that time there has been no communication from the Applicant's representatives.

12. Rule 27 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) provides that a Tribunal may dismiss proceedings if the Applicant has failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings justly and fairly. The Applicant’s representatives have failed to attend the CMD on two occasions thus preventing any meaningful progress of the case. The Tribunal has therefore determined that the application should be dismissed in terms of Rule 27(2)(b).

Decision

13. The Tribunal dismisses the application.

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.

G.Harding

Legal Member/Chair

28 January 2025
Date