



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/CV/23/1090

Re: Property at 3 Rosemount Cottage, Monkton, Prestwick, KA9 2QZ (“the Property”)

Parties:

Ms Donna Duncan, 19 Wellington Drive, Monkton, Prestwick, KA9 2FH (“the Applicant”)

Mrs Fiona Baird, 4 Fairway View, Prestwick, KA9 2SZ (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismissed the Application under Rule 27 (2) (a).

Background

[2] The Application had called previously for Case Management Discussion (“CMD”) on both 17 September and 4 December 2024. On each occasion, the Tribunal had made a Direction that the Applicant submit the following:

A detailed statement of claim in numbered paragraphs that addresses the following:

- 1. The Statement of Claim ought to set out the full facts and circumstances of the claim and which addresses each head of loss and which provides fair notice to the Respondent and the Tribunal of all the facts the Applicant intends to found upon;*

2. *The Statement of Claim ought to set out all the legal principles upon which the claim proceeds and set out why, as a matter of those legal principles identified, the claim ought to be successful;*
3. *The Statement of Claim ought to set out the methodology upon which each head of claim has been valued and which also addresses of causation in respect of why the Respondent is liable for each head of claim.*

[3] At the initial CMD, The Tribunal had explained that the Applicant should take legal advice as the subject matter of her claim was complex. The Applicant then failed to comply with this Direction and then failed to attend at a subsequent CMD that took place on 4 December 2024. The Tribunal did however give the Applicant another opportunity to lodge the required information by 31 January 2025. The Tribunal explained that unless this information was submitted, the Application would be dismissed under Rule 27 (2) (a). The Applicant submitted some information to the Tribunal by email dated 21 January 2025.

The Case Management Discussion

[4] The Application called for a further Case Management Discussion by conference call at 10 am on 13 March 2025. The Applicant was present together with her son, Mr Anthony Duncan, who was on the call to assist the Applicant. The Tribunal proceeded on the basis that Mr Duncan was his mother's representative. The Respondent was present together with her solicitor, Ms Goldie.

[5] It became clear that the Tribunal had not received a separate word document which had also been submitted by the Applicant on 21 January 2025. The Tribunal therefore adjourned to allow the Tribunal to consider this document.

[6] The Tribunal thereafter resumed and invited submissions from parties regarding whether or not the Applicant had complied with the terms of the Directions previously made. After hearing from parties and after considering the matter, the Tribunal decided that the Directions had not been complied with. The Tribunal noted that, if anything, the information supplied actually confused the matter further rather than offer any further clarification.

[7] The Applicant had now alleged that she should be reimbursed fuel costs for her time in the Property. This had not been mentioned in the original Application. The Applicant then said on the call that when she wrote that she should be reimbursed her rent costs she was actually meaning her "fuel" costs. This was confusing. The Applicant had provided a very brief letter which had been written by her GP with a view to the Applicant securing alternate accommodation. The Applicant had however supplied no information that actually gave any detail of any health conditions and had certainly not

explained why the Respondent, as a matter of law, might be liable to pay damages to the Applicant as a result of these alleged health conditions. The information supplied also appeared to claim the total sum of £9,556.00 despite the sums sought in the Application totalling £14,800. There was no detail provided of the supposed damage to furniture and the further information actually now referred to “*miscellaneous items*” which were not even fully detailed. There was no description of how the Applicant’s property was actually damaged or why, as a matter of law, the Respondent should consequently be liable to the Applicant for damages.

Decision

[8] The Tribunal noted that the Applicant had been advised to seek legal advice. The Applicant explained that she hadn’t been able to find a solicitor willing to take the case on. She had been asked by solicitors why she hadn’t taken advice before raising her Application. Nevertheless, the Tribunal could not consider that it was reasonable for the Respondent to have to incur further costs and spend further time defending this Application. The Directions had not been complied with. It was not appropriate to put the matter to a Hearing as the case had not been adequately set out and remained confused and disjointed.

[9] The Tribunal therefore dismissed the Application in terms of Rule 27 (2) (a).

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.

Andrew McLaughlin

Legal Member/Chair

13 March 2025

Date