



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 38 of Schedule 1 to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 in relation to a request for permission to appeal under Section 46(3) of the Tribunals (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/20/0465**

**Re: Property at 10 Hutton Place, Aberdeen, AB16 7HR (“the Property”)**

**Parties:**

**Mr Paul Whitford, Mrs Maureen Whitford, 45 Mount Street, Aberdeen, AB25 2QX (“the Applicant”)**

**Mr Gordon McGregor, 6 Annat Bank, Altens, Aberdeen, AB12 3NW (“the Respondent”)**

**Tribunal Members:**

**Joel Conn (Legal Member)**

**Decision**

The First-tier Tribunal for Scotland Housing and Property Chamber (“the Tribunal”) determines that permission to appeal to the Upper Tribunal should be refused.

**Background**

1. On 10 November 2020, at a case management discussion (“CMD”), the Tribunal granted an order for payment against the Respondent for £1,515.17 in an application by the Applicants for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”). The sum related to rent arrears under a Private Residential Tenancy Agreement of the Property by the Applicants to the Respondent dated 6 March 2019 and with start date on 8 March 2019.
2. The Decision was made at a continued CMD. The Respondent had been present at both the original CMD and the continuation. He both disputed the calculation of the arrears (disputing the date of termination of the PRT) and sought to retain any arrears said to be due against damages he said arose when, due to breaches of contract that he alleged the Applicants (or their

agent) to have committed, he opted to terminate the PRT and move home for a second time in short succession.

3. Thought the Respondent did narrate defences on which further evidence was possible, I was not satisfied that there were any parts of the defence which both related to relevant legal argument and for which there was clear specification of the position being advanced (despite opportunity having been provided to the Respondent to make such specification). For the reasons stated in my Decision, I held it appropriate to make the decision at the continued CMD without assigning a Hearing for further evidence. I awarded the order, as then sought by the Applicants, in full.
4. By email to the Tribunal dated 12 November 2020, the Respondent sought permission to appeal. His full email is as follows:

*I want to submit an appeal to this decision as I feel my witness would be suitable evidence to prove the landlord had visited the property without relevant notice on several occasions. Also the fact the letting agent can only recall the one phone conversation where her own conduct was brought into disrepute. They also did breach contract which forced us to relocate and incur costs for said move.*

I directed the Tribunal to email the Respondent setting out the terms of Procedure Rule 37(2)(b) and his need to “identify the alleged point or points of law on which the person making the application wishes to appeal”. I understand that an email to this effect was sent to the Respondent on or around 14 November 2020 and gave him until 17:00 on 24 November 2020 to provide any further submissions. The Respondent did not provide any further submissions.

### **Statement of Reasons for Decision**

5. In terms of section 46 of the *Tribunals (Scotland) Act 2014*:

*“(1) A decision of the First-tier Tribunal in any matter in a case before the Tribunal may be appealed to the Upper Tribunal.*

*“(2) An appeal under this section is to be made  
(a) by a party in the case,  
(b) on a point of law only.*

*“(3) An appeal under this section requires the permission of  
(a) the First-tier Tribunal, or  
(b) if the First-tier Tribunal refuses its permission, the Upper Tribunal.*

*“(4) Such permission may be given in relation to an appeal under this section only if the First-tier Tribunal or (as the case may be) the Upper Tribunal is satisfied that there are arguable grounds for the appeal.”*

The statutory provision is materially mirrored in the Procedure Rules. Rule 37 states:

*“(1) A person must make a written application to the First-tier Tribunal for permission to appeal.*

*“(2) An application under paragraph (1) must*  
*(a) identify the decision of the First-tier Tribunal to which it relates;*  
*(b) identify the alleged point or points of law on which the person making the application wishes to appeal; and*  
*(c) state the result the person making the application is seeking.”*

6. I am not able to discern a point of law in the Respondent’s email of 12 November 2020. Certainly the reference to the recollection of the letting agent (which was not a material point in my consideration) is a matter of assessment of evidence. Reading the email as generously as possible:
  - a. In regard to his desire for a further witness, I assume he is referring to his partner. I do not think that, in declining to assign the matter to a Hearing so as to hear from this witness, I excluded relevant evidence nor acted unreasonably. I held there was a lack of specification as to the visits and a lack of materiality to the breach, given the absence of any written evidence of raising the issue with the Applicants or their agent. I do not hold there to be an arguable legal point of appeal in regard to my issuing a Decision without first assigning a Hearing to consider evidence from the Respondent’s partner.
  - b. In regard to his statement that the Applicants *“did breach contract which forced us to relocate and incur costs for said move”*, this amounts to an argument that I erred in law in holding the contrary, but it is phrased in the barest of terms. Again, I do not hold there to be an arguable legal point.
7. In all the circumstances, there is no basis for granting permission to appeal the Decision of 10 November 2020 due to the lack of a point of law or any arguable point for appeal. I refuse the Respondent’s application.

### **Right to Appeal**

**In terms of paragraph 3 of Schedule 1 to the Upper Tribunal (Rules of Procedure) Regulations 2016, a party aggrieved by a decision of the Tribunal to refuse permission to appeal may ask the Upper Tribunal for Scotland to receive the appeal by providing a notice of appeal to the Upper Tribunal within 30 days after the day or receipt by that person of the notice of refusal of permission to appeal.**

J.Conn

**30 November 2020**

**Legal Member/Chair**

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**Date**