



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/0874

Re: Property at Flat 2/2 46 Corlaich Avenue, Glasgow, G42 0DS (“the Property”)

Parties:

Mrs Angela Fox, 56 Monteith Drive, Clarkston, Glasgow, G76 8NY (“the Applicant”)

Mr Steven Lyons, Ms Nicola O'Hagan, Flat 2/2 46 Corlaich Avenue, Glasgow, G42 0DS (“the Respondents”)

Tribunal Members:

Andrew Cowan (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refused the Application.

1. This is an application for a payment order and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.
2. By Notice of Acceptance of Application dated 22 May 2020 the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion ("CMD") was therefore assigned for 18th August 2020. Due to the imposition of restrictions arising from the Covid-19 pandemic a direction was issued to the parties by the Chamber President confirming that the CMD would take place by teleconference. Notification of the date and time, together with instructions on how to join the teleconference was intimated to the Respondents by Sheriff Officers on 27th July 2020.

Case Management Discussion

3. The CMD took place by teleconference on 18th August 2020. The Applicant was represented by Mr Hamaad Khalid, Solicitor. The Respondents did not attend the CMD, nor was there any representation on their behalf.
4. The Tribunal canvassed some concerns regarding the application with the Applicant's solicitor. The Application had been made under Rule 111 of the Tribunal's Rules of Procedure (application for civil proceedings in relation to a private residential tenancy). The Applicant's solicitor confirmed that he was seeking an order for payment in respect of rent arrears accrued by the Respondents during the term of a tenancy agreement between the Applicant and the Respondents.
5. The terms of the application did not align with the order sought at the CMD. The application states that the order sought from the Tribunal is an order granting recovery of possession of the property. The application was submitted along with a notice to leave in support of such an order. The Application does not seek any award of payment, whether in respect of rent arrears or otherwise.
6. The Applicant's have raised a separate application for Eviction under Tribunal reference FTS/HPC/EV/20/0876.
7. It appears that this application should have specifically referred to a claim for payment of rent arrears. It does not. No notice is given under the application, as served upon the Respondents, that the Applicant wishes to seek a payment order.
8. The application is misconceived in its current format and is accordingly refused.

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.

18/08/20

Legal Member/Chair

Date