

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision and Statement of Reasons under Section 43 of the Tribunals (Scotland) Act 2014 and Regulation 39 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017

Chamber Ref: FTS/HPC/CV/21/1955

Property : Flat 3/1, 20 Strathblane Gardens, Glasgow G13 1BF ("Property")

Parties:

Anne Marie Coll, c/o 41 Dunellan Road, Glasgow G62 7RE ("Applicant")

Thorntons Law LLP, Whitehall House, 33 Yeaman Shore, Dundee DD1 4BJ ("Applicant's Representative")

Mana Majidi-Olayidi, Flat 3/1, 20 Strathblane Gardens, Glasgow G13 1BF ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Background

The Applicant sought an order for payment of £1,898.18 plus interest in respect of arrears of rent. The Applicant had lodged with the Tribunal Form F along with relevant supporting documentation. At a Case Management discussion on 9 December 2021 the Tribunal granted an order for payment of £1,898.18 plus interest (the "Decision").

Review

By email dated 10 December 2021 the Applicant's Representative told the Tribunal that they had received payment in full from the Respondent. By email dated 15 December 2021 the Applicant's Representative told the Tribunal that the Applicant would not oppose a review of the Decision but did not wish to incur any further expenses by attending a hearing regarding a review.

Decision

The Tribunal considered matters in terms of section 43 of the Tribunals (Scotland) Act 2014 (the "2014 Act") and Regulation 39 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the "Regulations") and determined that it was in the interests of justice to review the decision of 9 December 2021 at its own instance and to set the decision aside.

Reasons

In terms of Section 43 of the 2014 Act and Rule 39 of the Regulations the Tribunal may, at its own instance, review a decision made by it where it is necessary in the interests of justice to do so.

Section 44 of the 2014 Act sets out the actions that can be taken on Review, which are that the Tribunal may: (a) take no action; (b) set the decision aside; or (c) correct a minor or accidental error contained in the decision.

Having considered matters in terms of Section 43 and 44 of the 2014 Act and Regulation 39 of the Regulations, as payment of the sum claimed had been remitted to the Applicant's Representative the day following the grant of an order for payment and before the time limit for appeal had expired (and therefore before the order had been issued to the Parties), the Tribunal determined that it was in the interests of justice to allow a Review and to set aside the Decision.

Appeal

In terms of section 43 of the Tribunals (Scotland) Act 2014 the exercise of discretion whether a decision should be reviewed under section 43 cannot give rise to a review under section 43 or to an appeal under section 46 or 48 of said Act.

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.

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Joan Devine, Legal Member
Date: 14 January 2022