



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 30 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. Chamber Ref: FTS/HPC/EV/19/3649

Re: Property at 11 Townhead Street, Hamilton, ML3 7BQ (“the Property”)

Parties:

Mr Shakil Ahmed, c/o 23 Townhead Street, Hamilton, ML3 7BQ (“the Applicant”)

Miss Maria Ann Kenny, Mr Keven Morton Scott, 11 Townhead Street, Hamilton, ML3 7BQ (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondents).

- 1. The tribunal refused to recall the order for eviction made on 3 February 2020.**
2. This was an application for recall in terms of rule 30 of the First-tier Tribunal for Scotland Housing and Property Chamber Procedure Regulations 2017, ‘the rules.
3. On the 3 February 2020, the tribunal granted an order for eviction in the absence of the respondents in terms of s52 of the Private Housing) (Tenancies) (Scotland) Act 2016, ‘the Act’ and rule 109 of the rules.
4. The respondents did not attend and were not represented. The tribunal had sight of the sheriff officer’s execution of service of the application dated 6 January 2020 which confirmed that the application had been served by depositing on that date. The tribunal and was satisfied that the respondents had received notice in terms of rule 24. The tribunal proceeded in terms of rule 29.
5. The tribunal granted the mandatory eviction sought in terms of ground 12 on the basis that at the date of the service of the notice to leave and at the case

management discussion there were rent arrears of greater than one month's rental payment which had been outstanding for more than 3 consecutive months.

6. The respondents wrote an undated letter to the Tribunal Chamber received on 19 February 2020, which stated:

I am writing re your decision on granting eviction. I was not aware it had a date set for hearing to go ahead. Obviously, we were aware he was going for eviction proceedings. Our intentions were to object to this and defend our case. We do not agree with what our landlord has put forward for his case ie money owed plus letting agreement. So we would be very much obliged if we could be sent a date and time to attend and put a defence forward much obliged.

7. It was not clear to the tribunal whether the respondents had a defence to the application. Accordingly, the tribunal did not recall the order but instead, ordered the parties to attend a fresh case management discussion 'CMD' in terms of rule 30(9) of the rules
8. At the CMD today the applicants were represented by Mr Coyle solicitor. The respondents did not attend and were not represented. The tribunal had sight of the track and trace documentation in connection with the notification of today's CMD which was signed for by the respondent 'Scott' on 23 July 2020. The tribunal was satisfied that the respondents had received appropriate notification of the CMD in terms of rule 24. The tribunal proceeded with the CMD in terms of rule 29.
9. Mr Coyle invited the tribunal to refuse the recall request. In the absence of any appearance by the respondents the tribunal refused the recall request. The tribunal's decision of 3 February 2020 granting the eviction will therefore stand.

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.

Lesley A Ward Legal Member

Date 18 August 2020

