



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 Housing (Scotland) Act
2014**

Chamber Ref: FTS/HPC/PR/19/0495

Re: Property at 12 Meikle Road, Pollock, Glasgow (“the Property”)

Parties:

Leigh Ronald, Gowanbrae, Doune Road, Dunblane, FK15 9HR (“the Applicant”)

David Mahon, 12 Meikle Road, Pollock, Glasgow, G53 5JG (“ the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Decision (in absence of the Applicant and Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be refused.

Background

1. By application dated 8 February 2019 the Applicant sought an order for payment against the Respondent in the sum of £2875, being arrears of rent owed in relation to the property. A number of documents were lodged in support of the application including a copy tenancy agreement.
2. A copy of the application and supporting documents were served on the respondent by Sheriff Officer on 21 March 2019. Both parties were notified that the application would call before a Legal Member of the Tribunal for a Case Management Discussion (“CMD”) on 11 April 2019.
3. The case called for a CMD on 11 April 2019. There was no appearance by the Applicant or Respondent. The Applicant had telephoned the Tribunal in advance of the CMD to advise that the Respondent had been evicted and that she did not have a current address for him. The Legal Member determined that the CMD should be adjourned and that the copy application would require to be

re-served on the Respondent as it now appeared that the Respondent may not have received the papers if he was no longer in occupation. It was also noted that the Sheriff Officers had deposited the copy application and not served personally on the Respondent. The Legal Member issued a direction requiring the Applicant to provide the Tribunal with the Respondent's current address by 6 May 2019. The CMD was adjourned to 31 May 2019.

4. The Applicant failed to provide a current address for the Respondent and as a result the copy application and supporting papers could not be re-served. The Legal Member determined that the CMD should be further adjourned to a later date and the Applicant was asked by the Tribunal on 16 May 2019 whether she wished to apply for service by advertisement, if the whereabouts of the respondent were unknown. The Applicant responded stating that she does not have an address for the Respondent and that she was now arranging to sell the property and that she needed time to do so before considering the matter further. She did not request service by advertisement and did not indicate that she wished to withdraw the application. A response was issued by the Tribunal on 16 May 2019 stating that the application could not be progressed without service of the papers and asking the Applicant to confirm if she wanted to request service by advertisement or to withdraw the application. No response was received. A further email was sent on 7 June 2019 advising that a response was required by 14 June 2019 or the application may be refused. No response has been received.

Reason for decision

5. The Legal Member notes that that the Applicant failed to attend the CMD on 11 April 2019 and confirmed in advance of the CMD that the Respondent had been evicted from the property, also being the address at which the copy application had been deposited by Sheriff Officer. It therefore appears that service of the application has not been effected on the Respondent, whose whereabouts are currently unknown to the Applicant. The Applicant has not requested service of the application by advertisement to allow the application to proceed. The Applicant has not withdrawn the application although has indicated that she is currently selling the property and requires time to do so before considering the application further. She has failed to respond to communications from the Tribunal regarding the application. As the application cannot proceed without service on the Respondent and as the Applicant has failed to confirm to the Tribunal whether she wishes the application to proceed, when required to do so, the Legal Member is satisfied that the application should be refused.

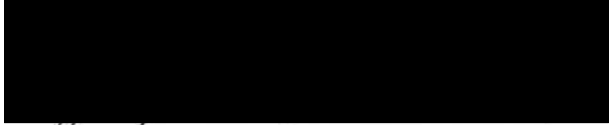
Decision

6. The application is 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.



Josephine Bonnar, Legal Member

23 June 2019