



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

Chamber Ref: FTS/HPC/CV/20/0463

Re: Property at 1/5 22 Neilston Road, Paisley, PA2 6LN (“the Property”)

Parties:

Mr Stephen Wright, 2/1 40 Waverley Road, Paisley, PA2 0AD (“the Applicant”)

Mr David Barclay, 205 Neilston Road, Paisley, PA2 6QW (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Parties)

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

Background

This is an application under section 71 of the Act and Rule 111 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017(Regulations)*. The Applicant seeks return of or alternatively compensation for the loss of property during a tenancy.

The Tribunal had regard to the following documents in advance of the Hearing:

1. Application received 10 February 2020;
2. Schedule of Lost Property and estimate of loss;
3. Letter from Renfrewshire Council dated 16 November 2019 details of contact with the Applicant on 14 March 2019;
4. Copy texts between the Parties lodged with the Tribunal on 15 July 2020;
5. Previous CMD Notes dated 15 July and 27 August 2020;
6. Email Notification of the Hearing and dial in details dated 24 September 2020;
7. Email from the Applicant dated 28 October 2020 enclosing email from Scottish Welfare Fund confirming the purchase of a mattress at a cost of £142.98.

HEARING

The Respondent dialled in and represented himself at the time the Hearing was due to start. The Applicant did not dial in.

The Tribunal delayed the start of the Hearing until 10.10 am to see if the Applicant would dial in. Whilst waiting the Respondent left the Hearing and did not dial back in or make contact with the Tribunal.

The Tribunal further delayed the commencement of the Hearing to see if the Respondent would dial back in. He didn't.

The Tribunal decided to commence the Hearing in absence of the Parties as they had both received notification of the Hearing.

The Tribunal considered the evidence that had been submitted and the issues that were in dispute as detailed in the last CMD Note.

The Tribunal were asked to determine:

1. Whether or not the Applicant was entitled to an order for compensation in respect of the double bed mattress that was retained by the Respondent following termination of the Applicant's tenancy with him;
2. If so, what amount of compensation should be awarded.

Whilst the Tribunal had evidence of the cost to purchase the mattress in the form of the email from the Scottish Welfare Fund it did not have any evidence as to whether or not the mattress had been returned, and, if it had not, why it had not been returned or uplifted.

In light of the lack of evidence from the Parties as to what the position with regard to the mattress was the Tribunal could not grant the order sought.

Outcome

- Application 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.

Alan Strain

29 October 2020

Legal Member: Alan Strain

Date